JS 44 (Rev. 06/17)

CIVIL COVER SHEET

AB

17-CV-2736

17 2736

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Adrian L. Robinson, Sr. and Terri J. Robinson as Personal Representatives and Co-Administrators of the Estate of Adrian Lynn Robinson, Jr. (See attached Schedule A for add'l Plaintiffs)

(b) County of Residence of First Listed Plaintiff Philadelphia County, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Bradford R. Sohn, THE BRAD SOHN LAW FIRM, PLLC, 2600 S. Douglas Road, Suite 1007, Coral Gables, Florida 33134, (786) 708-9750 (See attached Schedule A for add'l attorneys)

DEFENDANTS

National Football League, The National Football League Foundation, NFL Properties LLC, Riddell, Inc., Riddell Sports Group, Inc. (See attached Schedule A for add'l Defendants)

County of Residence of First Listed Defendant New York, New York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*
Sean P. Fahey, PEPPER HAMILTON LLP, 3000 Two Logan Sq., Eighteenth & Arch Streets, Philadelphia PA 19103-2799, (215) 981-4296 (See attached Schedule A for add'l attorneys)

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☒ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

V. ORIGIN *(Place an "X" in One Box Only)*

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
29 U.S.C. § 185, et seq.

Brief description of cause:
Claims arising from/substantially dependent on collective bargaining agreements

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE The Hon. Anita B. Brody DOCKET NUMBER MDL 2323

DATE 06/16/2017

SIGNATURE OF ATTORNEY OF RECORD Sean P. Fahey (PA ID: 73305)

JUN 16 2017

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

AB

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff (See Attached Schedule A)

Address of Defendant (See Attached Schedule A)

Place of Accident, Incident or Transaction On information and belief, as of this time, and based on the allegations set forth in the Complaint, all of the claims against Defendants arose in New York and possibly other states
(*Use Reverse Side For Additional Space*)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed R Civ P 7 1(a)) Yes☐ No☒

Does this case involve multidistrict litigation possibilities? Yes☒ No☐

RELATED CASE IF ANY
Case Number MDL 2323 Judge The Hon. Anita B. Brody Date Terminated N/A

Civil cases are deemed related when yes is answered to any of the following questions

1 Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No☒

2 Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☒ No☐

3 Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☒

4 Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No☒

CIVIL (Place ✔ in ONE CATEGORY ONLY)

A *Federal Question Cases*
1 ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2 ☐ FELA
3 ☐ Jones Act-Personal Injury
4 ☐ Antitrust
5 ☐ Patent
6 ☒ Labor-Management Relations
7 ☐ Civil Rights
8 ☐ Habeas Corpus
9 ☐ Securities Act(s) Cases
10 ☐ Social Security Review Cases
11 ☐ All other Federal Question Cases
(Please specify) _____

B *Diversity Jurisdiction Cases*
1 ☐ Insurance Contract and Other Contracts
2 ☐ Airplane Personal Injury
3 ☐ Assault, Defamation
4 ☐ Marine Personal Injury
5 ☐ Motor Vehicle Personal Injury
6 ☐ Other Personal Injury (Please specify)
7 ☐ Products Liability
8 ☐ Products Liability — Asbestos
9 ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION
(*Check Appropriate Category*)

I, _____, counsel of record do hereby certify

☐ Pursuant to Local Civil Rule 53 2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000 00 exclusive of interest and costs,

☐ Relief other than monetary damages is sought

DATE: _____ _____ _____
Attorney-at-Law Attorney I D #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: June 16, 2017 Sam Fahs 73305 JUN 16 2017
Attorney at Law Attorney I D #

CIV 609 (5/2012)

SCHEDULE "A"
TO DESIGNATION FORM

Plaintiffs: Estate of Adrian Lynn Robinson, Jr., c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Estate of Avery Marie Robinson, c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Adrian L. Robinson, Sr., c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Terri J. Robinson, c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Hawa Binturabi Conteh, c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Defendants: National Football League, 345 Park Avenue, New York, NY 10154

NFL Properties LLC, 345 Park Avenue, New York, New York, 10154

The National Football League Foundation, 345 Park Avenue, New York, NY 10154

Riddell, Inc., 9801 W. Higgins Road, Suite 800, Rosemont, IL 60018

Riddell Sports Group, Inc., 9801 W. Higgins Road, Suite 800, Rosemont, IL 60018

All American Sports Corp., 669 Sugar Lane, Elyria, OH 44035

BRG Sports, Inc., 9801 W. Higgins Road, Suite 800, Rosemont, IL 60018

BRG Sports, LLC, 9801 W. Higgins Road, Suite 800, Rosemont, IL 60018

EB Sports Corp., 7855 Haskell Ave., Suite 200, Van Nuys, CA 91406

BRG Sports Holdings Corp., 7855 Haskell Ave., Suite 200, Van Nuys, CA 91406

AB

17-cv-2736

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

17 2736

Address of Plaintiff (See Attached Schedule A)

Address of Defendant (See Attached Schedule A)

Place of Accident, Incident or Transaction On information and belief, as of this time, and based on the allegations set forth in the Complaint, all of the claims against Defendants arose in New York and possibly other states
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed R Civ P 7 1(a)) Yes☐ No☒

Does this case involve multidistrict litigation possibilities? Yes☒ No☐

RELATED CASE IF ANY
Case Number MDL 2323 Judge The Hon. Anita B. Brody Date Terminated N/A

Civil cases are deemed related when yes is answered to any of the following questions

1 Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes☐ No☒

2 Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes☒ No☐

3 Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes☐ No☒

4 Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? Yes☐ No☒

CIVIL (Place ✔ in ONE CATEGORY ONLY)

A *Federal Question Cases*
1 ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2 ☐ FELA
3 ☐ Jones Act-Personal Injury
4 ☐ Antitrust
5 ☐ Patent
6 ☒ Labor-Management Relations
7 ☐ Civil Rights
8 ☐ Habeas Corpus
9 ☐ Securities Act(s) Cases
10 ☐ Social Security Review Cases
11 ☐ All other Federal Question Cases
(Please specify) _____

B *Diversity Jurisdiction Cases*
1 ☐ Insurance Contract and Other Contracts
2 ☐ Airplane Personal Injury
3 ☐ Assault, Defamation
4 ☐ Marine Personal Injury
5 ☐ Motor Vehicle Personal Injury
6 ☐ Other Personal Injury (Please specify)
7 ☐ Products Liability
8 ☐ Products Liability — Asbestos
9 ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION
(Check Appropriate Category)

I, _____, counsel of record do hereby certify

☐ Pursuant to Local Civil Rule 53 2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of $150,000 00 exclusive of interest and costs,

☐ Relief other than monetary damages is sought

DATE: _____ _____ _____
Attorney-at-Law Attorney I D #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F R C P 38

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: June 16, 2017 Sam Fahs 73305
Attorney at Law Attorney I D #

CIV 609 (5/2012)

JUN 16 2017

SCHEDULE "A"
TO DESIGNATION FORM

Plaintiffs: Estate of Adrian Lynn Robinson, Jr., c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Estate of Avery Marie Robinson, c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Adrian L. Robinson, Sr., c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Terri J. Robinson, c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Hawa Binturabi Conteh, c/o Andreozzi & Associates, 111 N. Front St., Harrisburg, PA 17055

Defendants: National Football League, 345 Park Avenue, New York, NY 10154

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Riddell Sports Group, Inc., 9801 W. Higgins Road, Suite 800, Rosemont, IL 60018

All American Sports Corp., 669 Sugar Lane, Elyria, OH 44035

BRG Sports, Inc., 9801 W. Higgins Road, Suite 800, Rosemont, IL 60018

BRG Sports, LLC, 9801 W. Higgins Road, Suite 800, Rosemont, IL 60018

EB Sports Corp., 7855 Haskell Ave., Suite 200, Van Nuys, CA 91406

BRG Sports Holdings Corp., 7855 Haskell Ave., Suite 200, Van Nuys, CA 91406

AB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Adrian L. Robinson, Sr., et al.		CIVIL ACTION
v.		17 2736
National Football League, et al.		NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ( )

(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)

(f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

6/16/2017	Sean Fahey	Defendants
Date	**Attorney-at-law**	**Attorney for**
215-981-4296	215-689-4642	faheys@pepperlaw.com
Telephone	**FAX Number**	**E-Mail Address**

(Civ. 660) 10/02

JUN 16 2017

AB

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Adrian L. Robinson, Sr. and Terri J. Robinson as Personal Representatives and Co-Administrators of the Estate of Adrian Lynn Robinson, Jr., DECEASED, Adrian L. Robinson, Sr. and Terri J. Robinson and Hawa Binturabi Conteh and Marie Wuyatta Conteh as Co-Guardians on behalf of the Estate of Avery Marie Robinson, a minor child, and Adrian L. Robinson, Sr., Terri J. Robinson and Hawa Binturabi Conteh, individually and on behalf of Avery Marie Robinson, a minor child, as beneficiaries and survivors,

Plaintiffs,

v.

NATIONAL FOOTBALL LEAGUE, THE NATIONAL FOOTBALL LEAGUE FOUNDATION, individually and as successor in interest to NFL CHARITIES, NFL PROPERTIES LLC, individually and as successor in interest to NFL PROPERTIES, INC., RIDDELL, INC., RIDDELL SPORTS GROUP, INC., ALL AMERICAN SPORTS CORP., BRG SPORTS, INC. f/k/a Easton-Bell Sports, Inc., BRG SPORTS, LLC f/k/a Easton Bell Sports, LLC, EB SPORTS CORP., and BRG SPORTS HOLDINGS CORP. f/k/a RBG Holdings Corp.,

Defendants.

17 2736

CIVIL ACTION
No. _____

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, for the reasons set forth below, Defendants the National Football League ("NFL"), NFL Properties LLC ("NFLP"), and the NFL Foundation f/k/a NFL Charities ("NFLC"), collectively the "NFL Defendants," by their undersigned attorneys, file this Notice of Removal to remove the claims against them in

this action from the Court of Common Pleas of Philadelphia, Civil Trial Division, in which the above-captioned case is now pending, to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §§ 1331, 1367, 1441 and 1446. Removal is made pursuant to 28 U.S.C. § 1331 on the basis of federal question jurisdiction and, to the extent that federal question jurisdiction pertains to some but not all of Plaintiffs' claims, 28 U.S.C. § 1367. The grounds for removal are as follows:

I. INTRODUCTION AND BACKGROUND

1. On May 19, 2017, the NFL Defendants were served by Plaintiffs—the daughter, parents, partner, and Personal Representatives and Co-Administrators of the estate of former NFL player Adrian Robinson Jr.—with a Complaint (the "Complaint") filed in the Court of Common Pleas, Philadelphia Civil Division No. 170502513. Copies of the Complaint and other documents filed in this action are annexed as Exhibit A.

2. The Complaint alleges that Robinson played in the NFL from 2012 through the 2014-15 season and was diagnosed upon death with Chronic Traumatic Encephalopathy allegedly caused by "repetitive subclinical and clinical blows to the head" while playing football. (Compl. ¶¶ 3, 4, 358, 376, 418.) The Complaint further alleges that the NFL Defendants owed a duty to "'reduce injury risks in football'" (*id.* ¶ 17) and to disclose to Robinson "the true character, quality, and nature of risks and dangers of repetitive head injuries, concussions and sub-concussive blows as well as latent diseases caused by these blows to the head." (*Id.* ¶ 29.) The Complaint alleges that the NFL Defendants breached these duties by, among other things, negligently or fraudulently "conclud[ing] that it was appropriate for players who suffered a concussion to return to play in the same game or practice in which the concussion occurred" (*id.* ¶ 272), and that concussed players who return to the same game "were at no increased risk

of subsequent concussions or prolonged symptoms such as memory loss, headaches, and disorientation." (*Id.* ¶ 236(d).) The Complaint also alleges that the NFL Defendants breached their duties to Robinson by "agree[ing] to engage in a long-term plan to conceal material information about football's link to CTE and other neurological/neurobehavioral conditions" (*id.* ¶ 192), and "brand[ing] (and legitimiz[ing]) knowingly unsafe protective equipment for the purpose of mitigating against MTBI." (*Id.* ¶ 15.)

3. The Complaint alleges, pursuant to both the Pennsylvania Wrongful Death Act and the Pennsylvania Survivor Acts (42 Pa. C.S.A. § § 8301, 8302), causes of action for: conspiracy (Count I), fraudulent concealment (Count II), and negligence (Count III) against the NFL Defendants and Riddell, Inc., Riddell Sports Group, Inc., All American Sports Corp., BRG Sports, Inc. f/k/a Easton-Bell Sports, Inc., BRG Sports, LLC f/k/a Easton Bell Sports, LLC, EB Sports Corp., and BRG Sports Holdings Corp. f/k/a/ RBG Holdings Corp. (collectively, "Riddell"); negligence—marketing and negligent hiring/retention/supervision (Counts IV, VI) against the NFL and Riddell; negligence—licensing (Count V) against NFLP and Riddell; and failure to warn (Count VII) against Riddell. (Compl. ¶¶ 378-438.) Plaintiffs seek recovery for all available damages arising out of Robinson's alleged cognitive injuries that purportedly were a substantial factor in his death. (*Id.* ¶¶ 377, 378, 384.)

4. The relationship between the NFL Defendants and Robinson was governed by the 2011 collective bargaining agreement ("CBA"), the accompanying NFL Constitution and Bylaws, and the Standard Player Contract, that were operative during Robinson's NFL career. The CBA was the product of exhaustive arm's-length negotiations between the NFL Management Council (the exclusive bargaining representative of the NFL), on the one hand, and the NFL Players Association (the

exclusive bargaining representative of NFL players), on the other hand, and "represents the complete understanding of the parties on all subjects covered [t]herein." (CBA Art. 2 § 4(a).) The CBA, Constitution and Standard Player Contract define the existence and scope of any purported duties owed to Robinson by the NFL Defendants and include, among other terms, provisions relating to player medical care and safety, rule-making, protective equipment, and dispute resolution.

II. GROUNDS FOR REMOVAL

5. This Court has original jurisdiction of this action under 28 U.S.C. § 1331 because the action is one that is founded on a claim or right "arising under the Constitution, laws, or treaties of the United States." A defendant may remove an action to federal court under 28 U.S.C. § 1441 if the complaint presents a federal question, such as a federal claim. *See Avco Corp.* v. *Aero Lodge No. 735*, 390 U.S. 557, 560, 88 S. Ct. 1235, 1237, 20 L. Ed. 2d 126 (1968).

6. Federal question jurisdiction exists in this case based on complete preemption of Plaintiffs' claims under section 301 of the Labor Management Relations Act ("LMRA"). *See Henderson* v. *Merck & Co., Inc.*, 998 F. Supp. 532, 536 (E.D. Pa. 1998) ("The doctrine of complete preemption applies only when it is found that Congress intends that a federal statute completely preempt an area of state law, so that any complaint alleging that area of state law is presumed to allege a claim arising under federal law, and, thus, may be removed to federal court."); *see also Duerson* v. *Nat'l Football League*, No. 12-C-2513, 2012 WL 1658353, at *2 (N.D. Ill. May 11, 2012) ("Even when a lawsuit raises only state law claims, the lawsuit can still arise under federal law if a federal cause of action completely preempts a state cause of action.") (internal quotation marks omitted).

7. To the extent that any claim in the Complaint is not preempted, it "form[s] part of the same case or controversy." 28 U.S.C. § 1367(a). This Court thus has supplemental jurisdiction over all parties and claims. *See Pryzbowski* v. *U.S. Healthcare, Inc.*, 245 F.3d 266, 275-76 (3d Cir. 2001) (holding that the district court had the authority to exercise supplemental jurisdiction over claims against pendant parties because "[section 1367(a)] authorizes a district court to exercise supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution."); *Vino 100, LLC* v. *Smoke on the Water, LLC*, No. 09-4983, 2012 WL 1071174, at *1 n.1 (E.D. Pa. Mar. 30, 2012) ("[W]e may exercise supplemental jurisdiction over the parties' state-law claims because they share a common nucleus of operative fact with the plaintiffs' [federal law] claim."); *see also Duerson*, 2012 WL 1658353, at *6 ("Federal jurisdiction thus exists over [Duerson's negligence] claim, and the court can exercise supplemental jurisdiction over the rest of Duerson's claims.").

8. Section 301 of the LMRA provides that the federal courts have original jurisdiction over all "[s]uits for violation of contracts between an employer and a labor organization." 29 U.S.C. § 185(a). The Supreme Court has held that "questions relating to what the parties to a labor agreement agreed, and what legal consequences were intended to flow from breaches of that agreement, must be resolved by reference to uniform federal law, whether such questions arise in the context of a suit for breach of contract or in a suit alleging liability in tort." *Allis-Chalmers Corp.* v. *Lueck*, 471 U.S. 202, 211, 105 S. Ct. 1904, 1911, 85 L. Ed. 2d 206 (1985); *see also Beidleman* v. *Stroh Brewery Co.*, 182 F.3d 225, 231-32 (3d Cir. 1999) (holding that plaintiff's fraudulent misrepresentation and civil conspiracy claims were completely preempted and properly

removed because to resolve the claims "a court must identify and interpret substantive provisions of the [CBA]"). Thus, section 301 preempts tort claims seeking to vindicate "state-law rights and obligations that do not exist independently of [collective bargaining] agreements" and also claims "substantially dependent upon analysis of the terms of [a collective bargaining] agreement." *Allis-Chalmers*, 471 U.S. at 213, 220; *Beidleman*, 182 F.3d at 231-32 (same); *Antol* v. *Esposto*, 100 F.3d 1111, 1115, 1117 (3d Cir. 1997) (same).

9. Complete preemption under the LMRA is "an 'independent corollary' to the well-pleaded complaint rule . . . that [ ] 'converts an ordinary state common-law complaint into one stating a federal claim for purposes of the well-pleaded complaint rule.'" *Caterpillar Inc.* v. *Williams*, 482 U.S. 386, 393 (1987) (quoting *Franchise Tax Bd. of Cal.* v. *Construction Laborers Vacation Trust for S. Cal.*, 463 U.S. 1, 22 (1983) and *Metropolitan Life Ins. Co.* v. *Taylor*, 481 U.S. 58, 65 (1987)). Section 301 of the LMRA has complete preemptive force. Moreover, under the "artful pleading" doctrine, the Court may "look beyond the plaintiff's allegations to the substance of the plaintiff's complaint because a plaintiff 'may not defeat removal by failing to plead necessary federal questions.'" *Cipriano* v. *Phila. Newspaper, Inc.*, No. CIV A. 98-4751, 1999 WL 135111, at *3 (E.D. Pa. Mar. 12, 1999) (quoting *Meier* v. *Hamilton Standard Elec. Sys., Inc.*, 748 F. Supp. 296, 299 (E.D. Pa. 1990) and citing *Franchise Tax Bd.* v. *Constr. Laborers Vacation Trust*, 463 U.S. 1, 22 (1983)).

10. Here, Plaintiffs' claims are preempted because resolution of those claims is "inextricably intertwined with consideration of the terms of [the CBA]" or "substantially dependent" on an analysis of the relevant provisions of the CBA. *Allis-Chalmers*, 471 U.S. at 213, 215, 220; *see also Beidleman*, 182 F.3d at 235 ("[T]o decide

the merits of each claim alleged in the employees' complaint, a court would have to interpret the terms of the [CBA] to determine what rights, relationships or duties it conferred on the parties."); *Duerson*, 2012 WL 1658353, at *4, 6 (concussion-related negligence claim against NFL preempted); *Maxwell* v. *Nat'l Football League*, No. 11-cv-08394 R(MANx), Order at 2 (C.D. Cal. Dec. 8, 2011) (same); *Pear* v. *Nat'l Football League*, No. 11-cv-08395 R(MANx), Order at 2 (C.D. Cal. Dec. 8, 2011) (same); *Barnes* v. *Nat'l Football League*, No. 11-cv-08395 R(MANx), Order at 2 (C.D. Cal. Dec. 8, 2011) (same); *Stringer* v. *Nat'l Football League*, 474 F. Supp. 2d 894, 909-10 (S.D. Ohio 2007) (wrongful death claim arising out of heat-related illness against the NFL preempted because resolution of the claim was substantially dependent upon an analysis of CBA provisions related to NFL player medical care and treatment).

11. For example, resolution of Plaintiffs' claims will require interpretation of CBA provisions relating to player medical care, rule making, and protective equipment safety. *See, e.g.*, NFL CBA Art. 39 § 1(c) ("If a Club physician advises a coach or other Club representative of a player's serious injury or career threatening physical condition which significantly affects the player's performance or health, the physician will advise the player in writing"); NFL CBA Art. 39 § 2 ("All athletic trainers employed or retained by Clubs . . . must be certified by the National Athletic Trainers Association"); NFL CBA Art. 50 § 1(a) (creating a Joint Committee to study, among other things, player safety issues involving "playing equipment"); NFL CBA Art. 50 § 1(b)-(c) (mandating procedures for review, investigation and resolution of disputes involving proposed rule changes that "would adversely affect player safety"); NFL CBA Art. 50 § 2 (inviting player representatives to the Competition Committee meetings "to represent the players' viewpoint on rules"); NFL CBA Art. 50 § 1(d) ("The

NFLPA shall have the right to commence an investigation before the Joint Committee if the NFLPA believes that the medical care of a team is not adequately taking care of player safety"); NFL Constitution and Bylaws Art. § 17.16(E) (2010) ("All determinations of recovery time for major and minor injuries must be by the club's medical staff and in accordance with the club's medical standards" for players categorized as "Reserve/Injured" on the Reserve List); NFL Constitution and Bylaws Art. § 19.5 (2010) (requiring that the home team provide a doctor and ambulance for each game);[1] NFL CBA App'x A (NFL Player Contract) ¶ 8 (requiring Players to make "full and complete disclosure[s] of any physical or mental condition known to him which might impair his performance under this contract")[2]; NFL CBA App'x A (NFL Player Contract) ¶ 9 (requiring Member Clubs to provide medical and hospital care as deemed necessary by their physicians in the event a player is injured). The Court will be required to interpret these provisions to determine the scope of the NFL Defendants' duties and to determine whether the NFL Defendants acted reasonably in light of those provisions. *See Duerson*, 2012 WL 1658353, at *4.

12. Indeed, two separate district courts considering allegations similar to those alleged here determined that the NFL properly removed complaints brought by former NFL players because resolution of their concussion-related negligence claims was substantially dependent on, and inextricably intertwined with, an analysis of CBA

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[1] *See Clarett* v. *Nat'l Football League*, 369 F.3d 124 (2d Cir. 2004) ("In the [CBA], the union agreed to waive any challenge to the Constitution and Bylaws and thereby acquiesced in the continuing operation of the . . . rules contained therein."); *see also Brown* v. *Nat'l Football League*, 219 F. Supp. 2d 372, 386 (S.D.N.Y. 2002) ("[The NFL Constitution and Bylaws were] bargained over and included within the scope of the CBA.").

[2] *See Sherwin* v. *Indianapolis Colts, Inc.*, 752 F. Supp. 1172, 1177 (N.D.N.Y. 1990) ("The standard player agreement, which is used for every NFL player as required by Article XII, section 1 of the CBA, is effectively incorporated by reference in that article.")

provisions concerning medical care and treatment of NFL players. In *Duerson*, faced with a negligence claim alleging in part—like the claims alleged here—that the NFL "fail[ed] to educate players about the risks of concussions and the dangers of continuing to play after suffering head trauma," and "fail[ed] to implement policies and procedures to prevent David Duerson from returning to play with his injuries," the Northern District of Illinois held that the claim was preempted because resolution of the claim would require a court to interpret several of the CBA provisions concerning player health and safety. *Id.* at *1, 4. The court reasoned that:

> A court could plausibly interpret those provisions to impose a duty on the NFL's clubs to monitor a player's health and fitness to continue to play football . . . . The NFL could then reasonably exercise a lower standard of care in that area itself. Determining the meaning of the CBA provisions is thus necessary to resolve Duerson's negligence claim.

Id. at *4; *see also Maxwell*, Order at 1-2; *Pear*, Order at 1-2; *Barnes*, Order at 1-2 (holding that plaintiffs' concussion-related negligence claims, premised in part on allegations that the NFL failed "to ensure accurate diagnosis and recording of concussive brain injury so the condition can be treated in an adequate and timely manner," were preempted because "[t]he physician provisions of the CBA must be taken into account in determining the degree of care owed by the NFL and how it relates to the NFL's alleged failure to establish guidelines or policies to protect the mental health and safety of its players."); *Stringer*, 474 F. Supp. at 909-10 (wrongful death claim brought by decedent's widow against the NFL based on, among other things, the NFL's alleged failure to regulate adequately practices, games, equipment, and medical care to minimize the risk of heat-related illness, was preempted because resolution of the claim was "inextricably intertwined and substantially dependent upon an analysis of certain CBA provisions

imposing duties on the clubs with respect to medical care and treatment of NFL players"). Having determined that at least one federal claim was present, the courts in *Duerson, Maxwell*, *Pear*, and *Barnes* exercised supplemental jurisdiction over the remaining claims, and denied the motions to remand. *Duerson*, 2012 WL 1658353, at *6; *see also Maxwell*, Order at 2; *Pear*, Order at 2; *Barnes*, Order at 2.

13. Plaintiffs' claims are also preempted by section 301 because the purported duties Plaintiffs allege the NFL Defendants had and breached were created by the CBA and are not based on an independent duty "owed to every person in society." *See United Steelworkers of Am.* v. *Rawson*, 495 U.S. 362, 370-71, 110 S. Ct. 1904, 1910, 109 L. Ed. 2d 362 (1990) (holding in the context of a labor dispute involving unionized employees that, absent an independent duty running from defendants "to every person in society," any such duty to plaintiffs must arise out of the CBA); *see also Antol*, 100 F.3d at 1117 (holding that plaintiffs' wrongful termination claims were completely preempted and properly removed because they were "based squarely on the terms of the collective bargaining agreement"); *Peek* v. *Phila. Coca-Cola Bottling Co.*, No. 97-3372, 1997 WL 399379, at *6 (E.D. Pa. July 10, 1997) ("[I]t does not appear that plaintiff's negligence and gross negligence claims derive from any general duty of care owed by Coca–Cola to all persons."). Despite the Complaint's effort to downplay Robinson's years of play in the NFL, Plaintiffs' claims against the NFL Defendants, at their core, fundamentally turn on duties the NFL Defendants allegedly owed to professional football players, such as Robinson, to implement adequate rules, regulations, and guidelines regarding player health and safety. (*See, e.g.*, Compl. ¶¶ 17, 29, 234, 374, 389.) The CBAs and NFL Constitution, however, establish the duty of the NFL and its Member Clubs to implement and enforce rules regarding professional football, and it is solely pursuant to those terms

and under the CBAs' auspices that the NFL, its Member Clubs and the NFLPA have implemented and enforced those rules. *See, e.g.*, NFL CBA Art. 50 § 1(b)-(c) (mandating procedures for review, investigation and resolution of disputes involving proposed rule changes that "would adversely affect player safety"); NFL Constitution Art. § 11.2 (2010) (delegating to the NFL, and its member clubs, the obligation to "amend[] or change[]" all "[p]laying rules," and further requiring that all proposed rule changes be presented to the NFL prior to a vote).

14. In a futile attempt to avoid federal jurisdiction, the Complaint alleges that the NFL Defendants somehow are estopped from asserting federal jurisdiction on the basis of preemption as a result of two decades-old arbitration decisions in cases involving player grievances against their teams. (Compl. ¶¶ 33-37.) For the reasons set forth in the Memorandum of Law of Defendants National Football League and NFL Properties LLC in Opposition to Plaintiff's Motion for Leave to File Second Amended Master Administrative Long-Form Complaint filed in *In re National Football League Players' Concussion Injury Litigation*, 12-md-02323 (Doc. No. 7767), such allegations are baseless because the arbitration decisions relied upon by Plaintiffs are distinguishable, involved separate issues—indeed, they did not discuss or adjudicate preemption at all—and do not meet the standard necessary for a finding of collateral estoppel. Moreover, these allegations of estoppel are contrary to decades of federal court case law following those arbitration decisions (including an opinion squarely rejecting the relevance of those very arbitration decisions) finding that player injury claims such as these against the NFL are preempted.

III. REMOVAL IS PROCEDURALLY PROPER

15. The Eastern District of Pennsylvania is the federal district in which the Court of Common Pleas of Philadelphia—where Plaintiffs filed their Complaint—is located.

16. This Notice of Removal is timely under 28 U.S.C. § 1446(b), which states that "notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based."

17. Written notice of the filing of this Notice of Removal will be provided to Plaintiffs, and a copy of this Notice will be filed in the appropriate state court, as required by 28 U.S.C. § 1446(d). This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. *See* 28 U.S.C. § 1446(a).

18. Counsel for Riddell has consented to the removal of the action. All defendants thus have consented to removal of the action. *Di Loreto* v. *Costigan*, 351 F. App'x 747, 752 (3d Cir. 2009) ("When there is more than one defendant, 'the rule of unanimity' requires that all defendants consent to the removal.") (quoting *Lewis* v. *Rego Co.*, 757 F.2d 66, 68 (3d Cir. 1985)).

19. In filing this Notice of Removal, the NFL Defendants do not waive any defenses that may be available, including without limitation jurisdiction, venue, standing, or procedures for the disposition of this action in accordance with the terms of the CBA. Nor do the NFL Defendants admit any of the factual allegations in the Complaint; rather, the NFL Defendants expressly reserve the right to contest those allegations at the appropriate time.

WHEREFORE, the NFL Defendants remove the above-captioned action brought against them in the Court of Common Pleas of Philadelphia, Pennsylvania.

Dated: June 16, 2017

Respectfully submitted,

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Attorneys for the National Football League, NFL Properties LLC, and the National Football League Foundation

EXHIBIT A

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
COURT OF COMMON PLEAS OF PHILADELPHIA

Adrian L. Robinson, Sr. and Terri J. Robinson
as Personal Representatives and Co-Administrators
of the Estate of Adrian Lynn Robinson, Jr., DECEASED
et al.

v.

National Football League et al.

No.
CIVIL ACTION - LAW

JURY TRIAL DEMANDED
May Term, 2017

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint of for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Philadelphia Bar Association
Lawyer Referral
and Information Service
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decider a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleve esta demanda a un abogado immediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

Asociacion De Licenciados
De Filadelfia
Servicio De Referencia E
Informacion Legal
One Reading Center
Filadelfia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

10-284

Case ID: 170502513

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

Adrian L. Robinson, Sr. and Terri J. Robinson as Personal Representatives and Co-Administrators of the Estate of Adrian Lynn Robinson, Jr., DECEASED, Adrian L. Robinson, Sr. and Terri J. Robinson and Hawa Binturabi Conteh and Marie Wuyatta Conteh as Co-Guardians on behalf of the Estate of Avery Marie Robinson, a minor child, and Adrian L. Robinson, Sr., Terri J. Robinson and Hawa Binturabi Conteh, individually and on behalf of Avery Marie Robinson, a minor child, as beneficiaries and survivors, Plaintiffs, vs. NATIONAL FOOTBALL LEAGUE, THE NATIONAL FOOTBALL LEAGUE FOUNDATION, individually and as successor in interest to NFL CHARITIES, NFL PROPERTIES LLC, individually and as successor in interest to NFL PROPERTIES, INC., RIDDELL, INC., RIDDELL SPORTS GROUP, INC., ALL AMERICAN SPORTS CORP., BRG SPORTS, INC. f/k/a Easton-Bell Sports, Inc., BRG SPORTS, LLC f/k/a Easton Bell Sports, LLC, EB SPORTS CORP., and BRG SPORTS HOLDINGS CORP. f/k/a RBG Holdings Corp., Defendants.	:	No. CIVIL ACTION – LAW MAY TERM, 2017 JURY TRIAL DEMANDED Filed on behalf of Plaintiffs: <u>Counsel of Record for this Party</u>: Bradford R. Sohn, Esquire *Admission Pro Hac Vice Pending* THE BRAD SOHN LAW FIRM, PLLC 2600 S. Douglas Road, Suite 1007 Coral Gables, Florida 33134 (786) 708.9750 brad@sohn.com Benjamin Andreozzi, Esquire PA ID No. 89271 ANDREOZZI & ASSOCIATES, PC 111 N. Front Street Harrisburg, Pennsylvania 17101 (717) 525-9124 ben@victimscivilattorneys.com

COMPLAINT IN CIVIL ACTION

The above-captioned Plaintiffs, Adrian L. Robinson, Sr. and Terri J. Robinson as Personal Representatives and Co-Administrators of the Estate of Adrian Lynn Robinson, Jr., DECEASED, Adrian L. Robinson, Sr. and Terri J. Robinson and Hawa Binturabi Conteh and Marie Wuyatta Conteh as Co-Guardians on behalf of the Estate of Avery Marie Robinson, a minor child, and Adrian L. Robinson, Sr., Terri J. Robinson and Hawa Binturabi Conteh, individually and on behalf of Avery Marie Robinson, a minor child, as beneficiaries and survivors, in all respective capacities (as Pennsylvania Wrongful Death/Survival Act Co-Executors, as Guardians of decedent's minor child, as wrongful death and survival beneficiaries, and where appropriate, on their own behalf), by and through their attorney THE BRAD SOHN LAW FIRM, PLLC[1] sue Defendants NATIONAL FOOTBALL LEAGUE, THE NATIONAL FOOTBALL LEAGUE FOUNDATION, individually and as successor in interest to NFL CHARITIES ("NFL C"), NFL PROPERTIES LLC, individually and as successor in interest to NFL PROPERTIES, INC. ("NFL P"), and collective entities individually and as valid successors in interest to the entities referred to herein, hereafter—as these Defendants have referred to themselves in other litigation—referred to as "RIDDELL" (in sum, RIDDELL, INC., RIDDELL SPORTS GROUP, INC., ALL AMERICAN SPORTS CORP., BRG SPORTS, INC. f/k/a Easton-Bell Sports, Inc., BRG SPORTS, LLC f/k/a Easton Bell Sports, LLC, EB SPORTS CORP., and BRG SPORTS HOLDINGS CORP. f/k/a RBG Holdings Corp.), stating as follows:

OVERVIEW

1. This Complaint sets forth an unparalleled story in American sports: it begins with a stunning conspiratorial arrangement and ends with the horrific death of Adrian Robinson,

[1] Admission *Pro Hac Vice* pending. Plaintiffs are also represented by counsel Benjamin Andreozzi.

Jr. The Robinsons (or the "Plaintiffs", hereinafter used to refer to ALL plaintiffs in ALL capacities) seek to hold alleged conspirators responsible for the economic and non-economic losses of this beloved son, partner, and dad, for his and his beneficiaries' tremendous suffering, for loss of parental support to his young daughter Avery Marie, and for all available damages.

2. As set forth herein, Defendants' knowledge of chronic traumatic encephalopathy ("CTE") dates back *at least* to the 1960s; the football community's knowledge does not. By this early date, the federal government had already studied CTE in a cohort of the concussed; substantial research had progressed on CTE in boxing; and NFL teams had actually experimented with soft-shell helmets in concussed players to mitigate blows.

3. As set forth herein, Defendants' conspiracy is decades old and has been designed to insulate them all (and other co-conspirators) from litigation exactly like *this*. As alleged, Mr. Robinson should never have been permitted to engage in football-play whatsoever after his very first NFL-sponsored season at age 7; he died some 18 years later at 25 while under contract to play Canadian Football League football after nearly two-decades of football exposures (e.g. sub-concussive and concussive blows), and after exhibiting warning signs that could have kept him alive, but for the concealment-fraud/conspiracy.

4. Defendants' multi-decade-long efforts to justify ignoring these warnings created a time-bomb in the decedent. After these two decades of football exposures, a CTE diagnosis upon death clarified the cause of decedent's theretofore unexplainable and improperly diagnosed symptoms. Defendants did so to perpetuate the industry football and its massive revenues.

5. The Robinsons were a prototypical Pennsylvania "football family," living and (in the instance of Adrian, Jr., literally) dying for the sport and watching each Sunday. They made perfect targets for Defendants' concealment-conspiracy of the sport's linkage to latent

brain disease: Defendants marketed football to parents (Adrian Sr. and Terri among them) as being safe; they licensed football helmets required to be safe; they created protective equipment they did not protect and that they knew did not adequately warn; and they sponsored sham-science and funneled money to "charitable" organizations paying for (what were really) litigation-motivated studies. Defendants acted in concert to maximize profits and (as to Riddell, to maximize market share) through hiding, misrepresenting and omitting information regarding football's ties to latent, catastrophic and/or deadly neurocognitive injuries based on repetitive head trauma. The concerted actions alleged demonstrate disregard for basic societal standards: the Robinsons trusted Defendants and death to show for it.

6. Beginning with the 1961-62 NFL Football season (if not before), Defendants[2] NFL and RIDDELL were made aware of the football-helmet telemetry study of Dr. Stephen Reid, sponsored by the American Medical Association. It provided helmet manufacturers including Riddell with actual knowledge of research on clinical concussive exposures (known medically as "mild-traumatic brain injury" or "MTBI") and subclinical MTBI exposures in NFL and NCAA football; Reid's first test-subject was a Detroit Lions' player at the 1961-62 NFL Pro Bowl. His telemetry study sought to detect brain damage in NFL and NCAA football players and to improve helmet efficacy; he would eventually acknowledge a "cumulative effect" of blows to the head in these studies.

7. By 1969, Defendant NFL sponsored a symposium with the U.S. Government on "Football Injuries", which focused on football-related head injury and contained presentations

[2] The corporate entities sued in this case have been held, over the fifty-plus-year time-span at issue in this case, by and through a number of corporate forms. They are referred to for simplicity as the "NFL"; "NFL C"; "NFL P"; and "RIDDELL." Nevertheless, it is Plaintiffs' understanding after significant good-faith research that the present defendants in this case constitute the relevant liable entities, either in their individual forms, their successor-in-interest forms, or both.

from leaders in helmet-science research as well as on brain damage. By this early date, the NFL and Riddell (with whom at least some of this information was shared) gained knowledge—actual knowledge—of substantial risks to the brain from the game. They did not warn or share this information with the football community.

8. To the contrary, at this early time, Defendant NFL retained the Stanford Research Institute—an expert consulting firm which had performed some of the earliest research on smoking, finding no link between cigarettes and lung cancer—to continue studying injuries.

9. Also in 1969, Defendant Riddell, with support for the idea in Defendant NFL's "Football Injuries" symposium, created the National Operating Committee on Standards in Athletic Equipment ("NOCSAE.") NOCSAE's helmet standards in the 1970s have only tangential relevance to concussion or sub-concussive blows and nevertheless this standard of "Gadd severity index" ("SI") has remained in force as the *only* standard for four decades.

10. By the 1970s, chronic traumatic encephalopathy ("CTE") which the NFL's MTBI Committee only acknowledged in boxers in the early 2000s, was observed in soccer players heading footballs. *Johnson, W., Skoreki, Reid, S.R., The Gadd Severity Index and Measurements of Acceleration When Heading an Association Football.* 1975. IRCOBI Conference (Birmingham, England). This study was presented at the leading biomechanics conference worldwide in 1975, and it was known about by leading biomechanics experts already studying football helmet safety-experts who had presented to Defendant NFL and many NFL teams (or "clubs") in 1969.

11. By the 1980s, the football-helmet industry nearly crumbled altogether due to death and paralysis verdicts; Defendant Riddell needed a partner and Defendants NFL and NFL P recognized their sport's need for helmets. Further, upon information and belief, litigation

involving the NFL's offshore captive insurance corporation, uncertainty over the NFL's relationship with its Member Club's players, and concern about a number of ALS-related deaths on one team motivated a more formal alliance between these two corporations. In or about 1988, Riddell began to enjoy the spoils of NFL-branding; NFL Member Clubs received free equipment if 80% of players wore Riddell helmets; and Riddell and the NFL, through NFL P, became joint-venturers in protective-equipment fraud.

12. But by the 1990s, decision-making about football helmets from the 1960s and 1970s was returning to haunt the NFL. The choice to move toward hard-shell, motorcycle-style-helmets—while highly effective against acute damage—was creating two long-term crises; a financial crisis for the football industry; and a pandemic for those playing the game. Players were becoming disabled with neurocognitive and behavioral sequelae at astounding rates; others still were suing NFL doctors due to acute problems from football exposure.

13. Defendants could have disclosed the risks of the game and the limitations of protective equipment by this point in time; they opted for money and a long-term holding strategy instead. Shortly after the birth of Adrian Robinson, Jr. (interchangeably, the "decedent") Defendants undertook to create self-serving pseudo-science on repetitive brain injury. They would establish a committee on MTBI; and they would fund unethical and flawed scientific studies to advance self-serving conclusions on testing methodologies, on brain injury, and on protective equipment-specifically football helmets and to a lesser extent mouthpieces.

14. Coinciding with this time, Adrian Robinson, Jr. began playing football, the NFL and NFL C had funneled numerous "MTBI grant" awards to insulate itself exactly from problems like those complained of in his lawsuit; NFL P had long been licensing Riddell helmets as "safe", and as the official helmet of the NFL; NFL P had been marketing by trying to "make

soccer moms the coaches of tackle football" and to promote "heads up" tackle football even with the knowledge that such a style of football makes absolutely no difference whatsoever when it comes to preventing latent neurological disease; Riddell had financially sponsored a pendulum used in material and fraudulent concussion research with the NFL; and the NFL had engaged with experience in numerous medical/scientific fields to provide non-clinical consultations related in theory to the good-faith "study" of MTBI but in reality related to the development of counter-science.

15. As set forth herein, Defendant NFL, NFL C, and Riddell, developed the sham-science; Defendant NFL P branded (and legitimized) knowingly unsafe protective equipment for the purpose of mitigating against MTBI. These Defendants, in conjunction with the other entities described herein, developed, licensed, and marketed the game without disclosing the truth. Instead, the published counter-science and marketed ineffective harm-reduction technology in the form of football helmets incapable of protecting the players from sub-concussive and concussive traumas, which resulted in latent disease.

16. Defendants were negligent in warning the world-wide football community (including the Robinson family.) In addition, they undertook concerted effort that deprioritized human life in the face of profit oft-analogized to the strategies of "Big Tobacco." Remarkably, in fact, the two industries contained overlapping key officials, counsel, and worked in concert with one another. And indeed, Defendants' ties directly to tobacco has a nexus to Adrian Robinson, Jr. in particular: Robinson Jr.'s own team doctor at Temple—Dr. Joseph Torg, who had performed substantial consulting for the NFL and for Riddell—was "highly regarded" by a Big Tobacco executive in correspondence with Tobacco Institute Vice President (and North

Carolina Congressman) Horace Kornegay, recipient of the famous tobacco strategy memorandum, the "Roper Proposal."

17. As alleged, Defendants, breached their common-law duties to the Robinsons as members of society, who bring suit by and through the Pennsylvania Wrongful Death and Survivorship statutes as referenced in the tables below:

NEGLIGENCE SUMMARY TABLE

DEFENDANT(S)	DUTY OF CARE OWED OUTSIDE 29 U.S.C. § 185(a)
NFL NFL C Riddell	Undertook, as stated in the second published paper in *Neurosurgery*[3], to "scientifically investigate concussion" and to "reduce injury risks in football" with "neither the authority nor the inclination to impose outside medical decision-making on the medical staffs of the individual teams."
NFL NFL C	Undertook a duty to the football community to engage in non-negligent scientific study, and to non-negligently fund and oversee 501(c)(3) NFL and its use of "MTBI Grants" as a means of funneling money toward *de facto* defense expert witnesses. Supervised, entrusted, and retained the "MILD TRAUMATIC BRAIN INJURY COMMITTEE" in an expressly **non-clinical capacity** to opine on the effects of mild and moderate head impacts.
NFL	Supervised, entrusted, and retained the "MILD TRAUMATIC BRAIN INJURY COMMITTEE" in an expressly **non-clinical capacity** to opine on the effects of mild and moderate head impacts.
NFL P Riddell	Negligently licensed protective equipment as the official helmet of the NFL with the knowledge these helmets could not protect against subclinical or MTBIs. RIDDELL/NFL P had a joint employee paid to ensure all licensed equipment was safe, knowing that this was a literal impossibility; this was a business deal.
NFL Riddell	Negligently marketed football, known to contain links to catastrophic and latent neurological illness, as safe for children like Adrian Robinson.

[3] Pellman, EJ, Viano DC *et al*, Concussion in Professional Football. 16-part series and separate introduction funded by Defendants NFL, NFL C, Riddell, Honda R&D Co. Ltd., and federal grants.

SUMMARY TABLE OF DEFENDANTS' FRAUDULENT CONDUCT

WHO?	WHAT?	WHEN?
NFL Riddell	Knowledge of studies on subclinical and clinical MTBI. Knowledge helmet technology and possibility to advance soft-shell helmet capable of better-mitigating against harms alleged in Complaint. Supports the 1969 formation of the National Operating Committee on Standards for Athletic Equipment ("NOCSAE"), an attempt to further buffer Defendants as to liability by putting these standards at an arms-length.	1960s 1969
NFL	Delayed recommendations to institute injury surveillance system until after NOCSAE data better established. Financially incentivized self-governing protective-equipment safety-standards creator to keep 40-year-old standards in place amidst actual knowledge safety standards had no use for concussion.	1972
NFL NFL C	Funneled "charitable grant" money to NFL C, subsequently paid to Dr. Stanley Appel for a study on possible linkage between three 49ers players all afflicted by ALS from the same time. Researcher is an outspoken critic of CTE/ALS-link. Researcher also published a study that smokers were less likely to get neurodegenerative disease and agreed, according to memoranda, to research for the Tobacco Institute.	1987
NFL P Riddell	As of 1988 according to *Riddell v. Schutt*, 727 F. Supp. 1120 (N.D. Ill. 1989), agreed to make Riddell the NFL's "Official Helmet"; agreed both parties had a duty to ensure equipment was sufficiently safe to prevent injury; agreed to jointly employ an individual responsible for equipment-safety.	1988
NFL NFL C Riddell	Participated in a long series of scientific researchers papers represented to be pro football's good-faith attempt at MTBI research. Papers included a series of biomechanical papers and were followed by papers in the peer-review journal *Neurosurgery*. The *Neurosurgery* papers were discovered to contain overtly false data on concussion numbers in Pro Football.	1997-2009
NFL NFL C	Funneled money to NFL Charities for "MTBI grants," which would fund the sham- science geared toward litigation avoidance including giving direct financial incentives to NOCSAE and to scientists.	1997-2011
Riddell NFL NFL P	Researched and developed the "Revolution" series helmet, holding it out as the first helmet designed with the intent of protecting against concussion. Riddell would make bold and unproven representations about this series, even over the privately-voiced concerns of MTBI Committee members.	2002-2006

JURISDICTION AND VENUE

18. The Philadelphia Court of Common Pleas has proper jurisdiction and venue properly lies in this matter, as it arises from Decedent's self-inflicted death, proximately caused by CTE, and occurring in Philadelphia, Pennsylvania on May 16, 2015.

19. Further, venue lies properly in Philadelphia, the location in which decedent received a substantial portion of his lifetime-worth of football exposures, including the majority of his documented concussions. This lifetime of football exposures (e.g. clinical and subclinical MTBI exposures) was a substantial factor in his acquiring CTE, experiencing massive pain and suffering therefrom, and ultimately, his death.

20. This Court has specific jurisdiction over all Defendants, who are alleged to have specifically harmed the decedent in Philadelphia, and his family, all citizens of Pennsylvania.

21. This Court alternatively also has general jurisdiction over all Defendants. Defendant NFL, as an unincorporated trade association, is considered at home and a citizen of each of its teams (the "Member Clubs"), and therefore is a citizen of Philadelphia, the principal place of business for the Philadelphia Eagles; Defendants NFL C and NFL P both continually and systematically engaged with Pennsylvania through the acts alleged in the injurious joint-venture such that their conduct within the forum gives rise to jurisdiction; and Defendants Riddell, comprising the entities that operate this national corporation, particularly engaged in such systematic and continuous conduct with respect to its sham-research and product-development.

EQUITABLE ESTOPPEL – TIME-BASED DEFENSES

22. As specifically alleged, this action sets forth a fifty-plus-year conspiracy with particularity that lulled the entire Robinson family and decedent into inaction and/or intentionally hid any otherwise-in-life-available causes of action from the Robinson family and decedent.

23. Consequently, the Defendants are estopped from asserting time-based defenses where Plaintiffs did not discover nor reasonably could not, at any earlier time, discovered that their manifested injuries (distinguished from on-field football-blows) had a causal connection to on-football blows, or to the Defendants' fraud.

TOLLING OF THE STATUTE OF LIMITATIONS

FRAUDULENT CONCEALMENT OF CAUSE OF ACTION

24. Defendants had decades' worth of science and research linking concussions and sub-concussive blows to latent brain disease.

25. Defendants have known or should have known of the risks and dangers of these latent brain diseases, including dementia, Alzheimer's, ALS or Lou Gehrig's disease, Parkinson's, and Chronic Traumatic Encephalopathy.

26. Defendants knew or should have known of the science and research well before Plaintiff ever played even Pop Warner and high school football and have known well after Plaintiff stopped playing. Defendants have concealed from or failed to notify Plaintiffs, their families and the public of the full and complete nature of true risks, symptoms and dangers of these latent brain diseases.

27. Although Defendants have now recently acknowledged the risks and dangers, Defendants did not fully disclose the seriousness of the issue and in fact, downplayed the widespread prevalence of the problem.

28. Any applicable statute of limitation has been tolled by Defendants' knowledge, active concealment, and denial of the facts alleged herein, which behavior is ongoing.

29. Defendants, as holders of superior knowledge and perpetrators of a concealment-fraud, were under a continuous duty to disclose to the Robinsons including decedent the true character, quality, and nature of risks and dangers of repetitive head injuries, concussions and sub-concussive blows as well as latent diseases caused by these blows to the head.

30. They actively concealed the true character, quality, and nature of the risks and dangers and knowingly made misrepresentations about the characteristics, risks, and dangers. The Robinsons and decedent and reasonably relied upon Defendants' knowing and affirmative misrepresentations and/or active concealment of these facts. Based on the foregoing, Defendants are estopped from relying on any statutes of limitation in defense of this action.

DISCOVERY RULE

31. The causes of action alleged herein did not accrue until decedent's family discovered the latent diseases and/or diagnosed the terrible symptoms from which he had suffered without any knowledge of the cause.

32. Plaintiffs had no realistic ability to discern that symptoms they witnessed in Robinson, Jr. were linked to latent brain disease, and therefore to the exposures to repetitive blows to the head suffered during play until after death. *See DeCarlo v. NFL.*

ESTOPPEL –SECTION 301(a) OF THE LABOR MANAGEMENT STANDARDS ACT

33. Defendant NFL has had prior opportunity to litigate Section 301 preemption in the arbitral forum. *See Henderson v. Dolphins* (Jan. 1988 – Kasher) and *Sampson v. Oilers* (Jul. 1988 – Kagel).

34. Defendant NFL's prior opportunity resulted in a judgment on the merits in the arbitral forum in both *Henderson* and also in *Sampson*.

35. Defendant NFL was in privity with the National Football League Management Council in the prior actions.

36. Defendant NFL had a full and fair opportunity to litigate the jurisdictional issue of whether the tort claims should be arbitrated. The NFL prevailed when taking the position that state law tort claims, tort damages, and punitive damages could *not* be arbitrated.

37. Accordingly, Defendant NFL is estopped from seeking to take the opposite position in this litigation.

EQUITABLE ESTOPPEL – CAUSATION

38. The Robinsons—notwithstanding the fact that the decedent's death was ruled a "suicide" prior to any determination of legal cause—received the proceeds from decedent's "AD&D policy" from Minnesota Life Group Employers Life Policy No. 34250.

39. At no time, did Minnesota Life Group Employers, on behalf of any of the Defendants, attempt to deny coverage based on an "intentional acts" exclusion; to the contrary, the insurer paid this policy, upon information and belief, having investigated the claim and determined CTE and its foreseeable result (the subject, self-inflicted death) caused the death as opposed to an excluded "intentional act."

40. Upon information and belief, Minnesota Life has an agency relationship with Defendant NFL, such that it cannot take inconsistent positions on the issue of "cause of death" as they have already received the benefit of partial payment for this loss by and/or through their agent.

THE PARTIES

THE ROBINSON FAMILY

41. Decedent Adrian Robinson, Jr. was the natural son of Mr. and Ms. Adrian Robinson, Sr., born in November 21, 1989 and deceased, May 16, 2015, in Philadelphia, Pennsylvania.

42. Decedent Robinson played football beginning at age 7, in or about 1997, on a team and in a youth league which, upon information and belief, received money from Defendants NFL and NFL C, and to which NFL P marketed.

43. Decedent Robinson resided in Philadelphia at the time of his death.

44. Mrs. Terri J. Robinson is the mother and executrix of the Estate of Adrian Robinson, Jr. and resides in Pennsylvania. She is also co-guardian of the Estate of Avery Marie Robinson.

45. Mr. Adrian Robinson, Sr. is the father and executor of the Estate of Adrian Robinson, Jr. and resides in Pennsylvania. He is also co-guardian of the Estate of Avery Marie Robinson.

46. Adrian Sr. and Terri Robinson are Pennsylvania residents, and were involved "football parents", understanding and acting in reliance upon marketing messages from Defendant NFL and NFL P's youth-marketing.

47. Ms. Hawa Binturabi Conteh is a Philadelphia resident and the natural parent of Ms. Avery Marie Robinson, a minor child; she is also co-guardian of the Estate of Avery Marie Robinson.

48. Ms. Marie Wuyatta Conteh is a Philadelphia resident and the aunt of Ms. Avery Marie Robinson, a minor child; she is also co-guardian of the Estate of Avery Marie Robinson.

49. Ms. Avery Robinson was the love of decedent's life, his daughter and his minor child. She is three years old.

DEFENDANTS

50. Defendant NFL is an unincorporated trade association and 501(c)(6) entity headquartered at 345 Park Avenue, New York, New York.

51. Defendant NFL is a wholly separate entity from: "member-club" franchise-holders, or 32 NFL teams; Defendant NFL P; the NFL Foundation (as successor in interest to NFL Charities); NFL Ventures, LP; and the NFL Management Council.

52. Defendant NFL's business has been and continues to be the promotion and organization of professional football.

53. Defendant NFL does not engage in labor negotiations of any sort whatsoever with NFL football players nor their union, the NFL Player's Association (the "NFLPA").

54. Defendant NFL C (the NFL Foundation f/k/a NFL Charities), individually and as successor-in-interest to NFL Charities, is a non-profit, 501(c)(3) entity headquartered at 345 Park Avenue, New York, New York.

55. NFL C is, as it once described itself, is "a non-profit organization created by the member clubs of the National Football League to enable the clubs to collectively make grants to charitable and worthwhile causes on the national level."

56. According to *NFL Properties, Inc. v. New Jersey Giants, Inc.*, 637 F.Supp. 507, 511 (D.N.J. 1986), NFL P is "the sole funding source for the trust that funds NFL Charities."

57. Upon information and belief, one notable exception to this was a donation of $5,000.00 by Phillip Morris Companies, Inc. to NFL Charities, Inc. dated January 20, 1995.

58. Defendant NFL C does not engage in labor negotiations of any sort whatsoever with NFL football players nor their union, the NFL Players' Association (the "NFLPA").

59. Defendant NFL P, or NFL P, individually and as successor in interest to NFL P, is a Delaware limited liability corporation headquartered in New York at the same address as Defendant NFL.

60. Defendant NFL P is the licensing arm of the NFL and agreed to ensure that the equipment and materials it licensed and approved were of the highest possible quality and sufficient to protect the players from the risk of injury.

61. According to *NFL Properties, Inc. v. New Jersey Giants, Inc.*, 637 F.Supp. 507, 511 (D.N.J. 1986), NFL P is "the sole funding source for the trust that funds NFL Charities."

62. Defendant NFL P does not engage in labor negotiations of any sort whatsoever with NFL football players nor their union, the NFLPA.

63. The NFL, founded in 1920, generated approximately $13,000,000,000.00 in gross income in 2016.

64. Defendant NFL acts as the trade association for the benefit of its thirty-two independently-operated Member Clubs or teams.

65. Over many decades, the NFL's influence has expanded through its use of the media.

66. In part because of their financial power, monopoly status, and high visibility, the NFL, NFL P and RIDDELL have had enormous influence over the game of football at all levels.

67. The NFL has earned millions upon billions of dollars from its licensing arrangements, handled through NFL P, such as the Riddell licensing deal.

68. RIDDELL was the Official Helmet of the NFL from 1989 through 2013. In 1989, NFL entered into a contract with RIDDELL. As the NFL's profits grew, so did those of the manufacturer and the marketer of the official helmet of the NFL.

THE RIDDELL DEFENDANTS

69. Riddell, upon information and belief and as alleged throughout, does business in relevant form in Pennsylvania, collectively through the entities sued: Riddell, Inc; Riddell Sports Group, Inc.; All American Sports Corporation; BRG Sports, Inc. f/k/a Easton-Bell Sports, Inc.; BRG Sports, LLC f/k/a Easton Bell Sports, LLC; EB Sports Corp.; and BRG Sports Holdings Corp. f/k/a RBG Holdings Corp.)

70. Riddell has—since its predecessor entities began doing so decades ago—sold, marketed, designed, researched, reconditioned, distributed and labelled football helmets—specifically those worn by Adrian Robinson, Jr.

71. Defendant RIDDELL, INC.—*e.g.* "Riddell Inc." and not all of the corporate entities—is a national corporation with its principal place of business in Illinois.

72. Defendant RIDDELL, INC. is a wholly-owned subsidiary of RIDDELL SPORTS GROUP, INC. ("RSG").

73. Defendant RSG is also parent to ALL AMERICAN SPORTS CORPORATION, d/b/a ALL-AMERICAN RIDDELL/ALL AMERICAN, a Delaware Corporation.

74. RSG and ALL AMERICAN, according to SEC filings by RIDDELL, INC., have directly "engaged in the business of the design, reconditioning and direct sale of football and baseball helmets, shoulder pads, practice wear, uniforms and other protective equipment to teams and educational institutions."

75. On April 27, 2001, RSG, formerly known as RIDDELL ACQUISITION SUB, INC. and as RIDDELL SPORTS INC., purchased ALL AMERICAN, Equilink Licensing Corporation, Ridmark Corp., RHC Licensing Corp., MacMark Corp., and Proacq. Corp., which collectively according to SEC documents, engaged in the business of design, reconditioning, and direct sale of football helmets and other protective equipment to teams and educational institutions.

76. RSG is therefore the proper successor in interest to the former entities as alleged herein. In addition, RSG is successor in interest to R Holdings Corp. RAE Holdings, Inc., and Riddell Sporting Goods, Inc.

77. RSG directly and as successor-in-interest to the above-alleged predecessors, directly participated in the design, manufacture, sale, marketing, and distribution of football equipment, including RIDDELL helmets to the public to Adrian Robinson Jr.'s youth and school football teams, to Temple University where Adrian Robinson Jr. played in college, and to the NFL teams in Pennsylvania on which decedent played.

78. RSG also directly holds and/or has held and/or developed football-helmet patents and other intellectual property related to the technology employed in RIDDELL football helmets.

79. ALL AMERICAN employed sales representatives to market and sell RIDDELL football helmets and also reconditioned, sold, marketed, and/or distributed football helmets to the public and to the NFL in Illinois.

80. ALL AMERICAN has admitted in litigation that its employees also work for RIDDELL, INC.

81. ALL AMERICAN placed warning labels onto commercially reconditioned helmets.

82. ALL AMERICAN holds and/or has held and/or developed football-helmet patents and other intellectual property related to the technology used in Riddell-branded football helmets.

83. ALL AMERICAN works with RIDDELL, INC. and has clarified this in NOCSAE newsletters, employing Mr. Don Gleisner, Mr. Daniel Kult, and Mr. Nelson Kraemer to have served in reconditioning, manufacturing, and technological capacities (respectively).

84. RSG is a wholly-owned subsidiary of BRG SPORTS, INC. ("BRG INC.")

85. BRG INC., formerly known as EASTON-BELL SPORTS, INC. is a Delaware Corporation with principal place of business in California.

86. BRG INC., RSG, RIDDELL, INC., and RIDDELL/ALL AMERICAN all share the same president, Mr. Dan Arment.

87. Upon information and belief, Riddell sales employees, ostensibly performing duties for RSG, ALL AMERICAN, BRG Inc. and BRG LLC, and for Riddell, Inc. all use the same professional email address domain: "@riddellsales.com".

88. "Riddell Institutional", upon information and belief, is also a part of RIDDELL/ALL AMERICAN.

89. Upon information and belief, Riddell—as alleged and depicted here—jointly indemnifies all of these related entities:

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON T
CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAG
BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISS
REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBI
the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certif
certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA INC. 540 W. MADISON CHICAGO, IL 60661 Attn: Chicago.CertRequest@marsh.com | Fax: 212-948-0770 RIDDEL	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: INSURER(S) AFFORDING CO INSURER A : Zurich American Insurance Company INSURER B : James River Insurance Company INSURER C : Navigators Insurance Company INSURER D : INSURER E : INSURER F :
INSURED BRG SPORTS, LLC INCLUDING RIDDELL AND ALL AMERICAN SPORTS CORPORATION AND THE ADDITIONAL SUBSIDIARIES & AFFILIATES AS SHOWN ON THE ATTACHED 9801 WEST HIGGINS ROAD, 8TH FLOOR ROSEMONT, IL 60018	

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

NAMED INSURED INCLUDES:

4078624 CANADA INC. (CANADA)
ALL AMERICAN SPORTS CORPORATION (DELAWARE)
ALL AMERICAN SPORTS LTD. (CANADA)
BELL CHINA INVESTMENTS, INC. (TEXAS)
BELL POWERSPORTS, INC. (BRAND NAME ONLY)
BELL RACING COMPANY (DELAWARE)
BELL SPORTS CANADA, INC. (CANADA)
BELL SPORTS CORP. (DELAWARE)
BELL SPORTS FITNESS ACCESSORIES (BRAND NAME ONLY)
BELL SPORTS, INC. (CALIFORNIA)
BRG RUBBER PRODUCTS, LIMITED (HONG KONG)
CDT NEVADA, INC. (NEVADA)
EB SPORTS CORP. (DELAWARE)
EQUILINK LICENSING, LLC (DELAWARE)
GIRO SPORTS DESIGN INTERNATIONAL, INC. (BRAND NAME ONLY)
MACGREGOR CORPORATION (DELAWARE)
MACMARK CORPORATION (DELAWARE)
RIDDELL SPORTS GROUP, INC. (DELAWARE)
RIDDELL, INC. (ILLINOIS)
RIDMARK CORPORATION (DELAWARE)
BRG SPORTS, INC (DELAWARE)
BRG SPORTS HOLDING CORP.
BELL TECHNOLOGY AQUISITION LLC (DELAWARE)
BELL MOTOHELMETS S.R.L. (ITALY)

90. BRG INC. directly holds and develops football-helmet-related patents and other intellectual property used in Riddell-branded football helmets, and sold, manufactured, marketed, distributed, and reconditioned protective equipment nationwide.

91. BRG, INC., itself and through its predecessor in interest, Easton-Bell, directly marketed and licensed RIDDELL products nationwide.

92. BRG SPORTS, LLC ("BRG LLC") formerly known as Easton-Bell Sports, LLC also formerly known as Riddell Holdings, LLC, is a Delaware Corporation with principal place of business in New York. BRG LLC directly participates in the design, development, marketing and distribution of branded athletic equipment and accessories, including RIDDELL football helmets and football protective equipment.

93. In September 2004, Bell Sports merged with Riddell Sports to form Riddell Bell and in February 2006, Riddell Bell merged with Easton Sports to form Easton-Bell Sports. In April 2014 Easton-Bell Sports sold its baseball and softball business and was renamed BRG Sports.

94. BRG LLC itself and by and through its subsidiaries and affiliates, designs and tests Riddell equipment intended to be sold, marketed, distributed, purchased, manufactured and/or reconditioned (from use in) Pennsylvania, and/or to the NCAA and/or NFL teams on which decedent played.

95. BRG LLC markets and licenses football helmets, holding itself out as "set[ting] the standard of design and protective excellence."

96. BRG LLC makes and/or made strategic decisions for and with RIDDELL, INC., ALL AMERICAN, and RSG. It further participates in its subsidiaries' operations in Illinois.

97. Defendant BRG SPORTS Inc. ("BRG SPORTS"), formerly known as Easton-Bell Sports, Inc., is a Delaware corporation with its principal place of business in California.

98. Defendant BRG SPORTS, INC., a corporate holding company of leading brands that design, develop and market innovative sports equipment, protective products, including helmets, apparel and related accessories, announced in 2016 that it had appointed Dan Arment to President and Chief Executive Officer of BRG Sports. In addition, Mr. Arment was promoted to CEO of RIDDELL, Inc. The offices of the President and CEO of BRG SPORTS and RIDDELL, Inc. are in Rosemont, Illinois.

99. Defendant BRG SPORTS develops football-helmet-related patents and other intellectual used in RIDDELL-branded football helmets, and sold, manufactured, marketed, distributed, and reconditioned in Illinois.

100. Defendant BRG SPORTS, by and through its predecessor in interest EASTON-BELL, directly marketed and licensed RIDDELL products.

101. Defendant BRG SPORTS HOLDINGS CORP. ("BRG HOLDINGS") formerly known as RBG HOLDINGS CORPORATION is a Delaware corporation with its principal place of business in Van Nuys, California that is doing business in Illinois.

102. BRG HOLDINGS has jointly purchased and contracted for joint indemnity and defense Commercial General Liability coverage with Aspen Specialty Insurance Company alongside all of these related RIDDELL DEFENDANTS, covering both non-products claims and also products liability claims.

103. BRG HOLDINGS holds and/or has held and/or developed football-helmet patents and other intellectual property related to the technology employed in RIDDELL-branded football helmets.

104. BRG HOLDINGS holds and/or held $382,608,333.33 in secured notes, either due, extended, or past-due from its subsidiaries, including BRG LLC, doing business in Illinois.

105. EB SPORTS CORP. ("EB SPORTS") is a Delaware corporation with its principal place of business in Van Nuys, California and is a wholly owned subsidiary of BRG LLC.

106. EB SPORTS holds itself out in its media releases as a "designer, developer, and marketer" of football equipment products, including RIDDELL football helmets.

107. EB SPORTS holds and/or has held and/or developed football-helmet patents and other intellectual property related to the technology employed in RIDDELL football helmets.

108. RIDDELL, INC., RSG, ALL AMERICAN, BRG SPORTS, INC., BRG INC., BRG LLC, BRG HOLDINGS, and EB SPORTS CORP., are collectively referred to herein as "RIDDELL" or "Riddell." Notwithstanding the legal relationship with their co-Defendants NFL, NFL C, and NFL P for the purposes of this action, these RIDDELL entities collectively hold the combination of actual and/or successor-in-interest entities comprise the chain responsible for RIDDELL's liabilities as alleged in this action for the manufacturing, distributing, reconditioning, selling, marketing, and advertising of RIDDELL football helmets and for the furtherance of the false science as alleged herein, in conjunction with the co- conspirators alleged herein.

SUMMARY OF THE CONSPIRACY

WHO?	WHAT?	WHEN	NATURE/SCOPE

NFL; NFL P (individually and as valid successor in interest entity); RIDDELL Entities as presently constituted where alleged, and as the successors in interest of the predecessor-in-interest entities; NFL C Third parties including but not limited to: NOCSAE; Albert I. King, Inc.; ProHealth, LLC; UPMC; ImPACT Applications, LLC	Agreed to induce reliance; Knew football helmets could not actually reduce harm with respect to injury from repetitive head trauma; Concealed dangers of repetitive head trauma and pushed "false" helmet tech advances as the key to a safer game; Sham research of "Independent" MTBI Committee; MTBI Committee engages paid experts to validate their test metrics and ultimately to publish papers based on knowingly fraudulent data; RIDDELL sponsors pendulum used in Biokinetics testing (flawed data from MTBI testing).	NFL, NFL P and RIDDELL agree by 1965; RIDDELL participates in formation of NOCSAE in 1969; Funneled money to NFL Charities for "research" on whether a link exists between three cases of ALS on the 49ers to be conducted by Tobacco- industry-friendly neurologist and CTE denier Agree around April 1989 to provide helmets sufficient to protect from the risk of injury; NFL funnels grant money for MTBI to NFL Charities between 1997 and 2011.	Needed football helmets at arms-length from pro football; RIDDELLfaced extinction from skull- fracture/bleed litigation in the 1960s and needed corporate survival, also profits with increased brand recognition. Formal relationship began to legitimize futile safety equipment used not only by players, but also by children idolizing these players; NFL could shift liability and RIDDELL's brand recognition skyrockets after becoming official corporate "safety" device. RIDDELL could sell to schools, children, and also became helmet of USA Football (Youth Marketing Arm of NFL).

GENERAL ALLEGATIONS

109. While the sport of football has been associated with certain risks of injury since its inception in the 1910s, a body of peer-reviewed scientific literature began to emerge associating football exposure with certain long-term neurocognitive and neurobehavioral dysfunction. As the NFL's head of officiating wrote internally in the 1960s:

In 1917, the federal government said that something had to be done about football from the standpoint of rules or it would abolish the game. At about that time, the NCAA rules committee was established, and the first real code of football was instituted.

110. Specifically, studies of athletes in 1928 demonstrated a scientifically observable link between repetitive exposures to head trauma and long-term, latent, brain disease. Pathologist Harrison Martland described the clinical spectrum of abnormalities ("cuckoo", "goofy" etc.) found in "almost 50 percent of fighters [boxers] . . . if they ke[pt] at the game long enough" (the "Martland study"). Martland, H., *Punch Drunk,* Vol. 91(15), JAMA p. 1103-1107 (1928).

111. The Martland study was the first to *specifically* link sub-concussive blows and/or "mild concussions" to latent brain disease that the medical community now recognizes as CTE, and that Martland first called "punch-drunk" syndrome, or *dementia pugislitica*. Martland, H., *Punch Drunk,* Vol. 91(15), JAMA p. 1103-1107 (1928).

112. While the Martland study was the first to specifically link sub-concussive blows to latent disease, dating fifty-two years early in time back to 1874, German scientists noted "there is a cumulative effect in the experimental animal with more severe blows." Hodgson, V.R., Gurdjian, E.S., and Thomas, L.M. Mechanical and Physiological Factors Related to Head Impact. (*Football Injuries Symposium*, NFL Commissioner's Office and National Academy of Sciences, Papers Presented February 7 and 8, 1969) (*citing* Koch, W., and Filene, W. 1874).

113. In 1933, the NCAA published its *Medical Handbook for Schools and Colleges: Prevention and Care of Athletic Injuries*. This NCAA publication outlined a specific concussion protocol due to its recognition of neurocognitive and neurobehavioral sequelae linked to these repetitive concussive and/or sub-concussive exposures.

114. In 1937, the American Football Coaches Association published a warning that concussed players be removed.

115. In the 1948, the New York State legislature instituted rules related to boxing referred to by the state's Medical Advisory Board, and later by sports neurologist Dr. Harry A. Kaplan as "traumatic encephalopathy."

116. At least by 1952, the federal government was conducting CTE research. Specifically, prominent Neuropsychiatrist Dr. Edwin Weinstein was studying CTE in a closed-head-injury cohort of Korean war veterans at Walter Reed Hospital.

117. Critically, the Weinstein CTE study defined concussion in step with modern times (in other words, it did not examine severe head-injury only or loss-of-consciousness only): Weinstein evaluated interruption of brain function.

118. Weinstein's study would receive legal recognition and validation in Federal District Court in 1966, when one of its participants robbed a bank and was tried in federal court in the 1960s. *See Nagell v. U.S.*, 392 Fed.2d 934, 937 (5th Cir. 1968) (CTE vitiated *mens rea*; "[h]ere the record is replete with expert testimony regarding … **'chronic traumatic encephalopathy'- a disease of the brain caused by trauma. Its symptoms: paranoia suicidal preoccupations, 'confabulations', tendency toward projection, impaired judgment, lack of contact with reality.**")

119. At this same time, in 1952, The New England Journal of Medicine was recommending a three-strikes rule for concussive exposures and football, and JAMA had published additional findings on repetitive head trauma exposures in boxers. 246 NEJM at 554-556 (1952); Busse, Ewald W. and Silverman, Albert J., *Electroencephalographic Changes in*

Professional Boxers, Vol.149:17, Journal of the American Medical Association p. 1522-1525 (1952).

120. Also in the early 1950s, research on pyramidal syndrome in athletes who sustained repetitive blows to the head was first being described in literature.

121. Following these studies in 1952, numerous subsequent peer-reviewed papers would appear in journals such as *Journal of the American Medical Association*, *Neurosurgery*, *The New England Journal of Medicine*, *Lancet* and others, all strengthening the consensus that exposure to repetitive head trauma—in the forms of acute concussion, multiple concussions, and long-term exposures to sub-concussive blows—had adverse consequences on the brain.

122. By 1962, Drs. Serel and Jaros looked at the heightened incidence of chronic encephalopathy in boxers and characterized the disease as a "Parkinsonian" pattern of progressive decline. Serel M, Jaros O. The mechanisms of cerebral concussion in boxing and their consequences. *World Neurol* 1962;3:351–8.

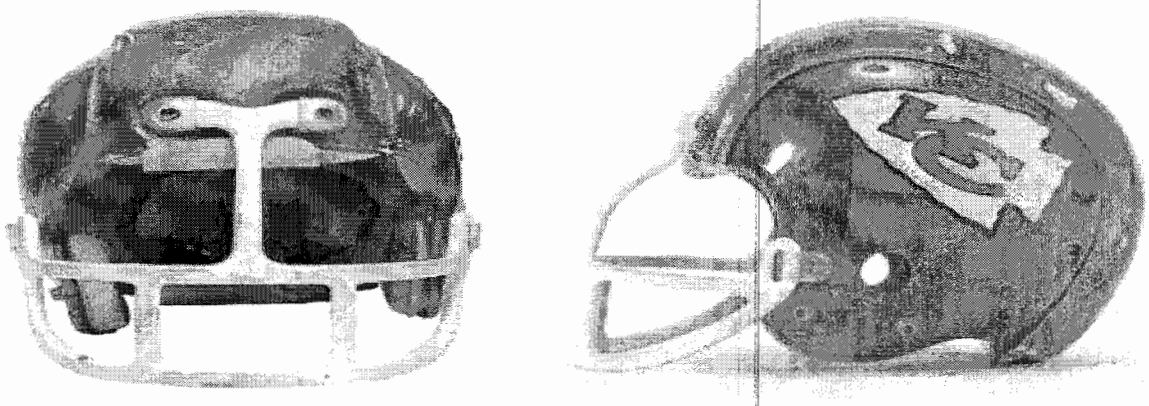
123. By 1964, German researchers Haynal and Regli discovered an association between ALS and repetitive traumatic injury. By 1962, Drs. Serel and Jaros looked at the heightened incidence of chronic encephalopathy in boxers and characterized the disease as a "Parkinsonian" pattern of progressive decline. Haynal A, Regli, F. Zusammenhang der amyotrophischen lateralsclerose mitgehäufter elektrotraumata. *Confinia Neurologica* 1964;24:189–98.

124. Also in 1964, the Congress of Neurological Surgeons symposia series in Miami, Florida discussed 35 cases of CTE ("chronic residua of head trauma" related to concussion in athletes) presented by Dr. Harry A. Kaplan (of New York.)

125. By 1964, Drs. Richard Schneider and Frederick Driss of the University of Michigan, who wrote considerably on football exposures, observed that concussion needed not require a loss of consciousness. Schneider's work at this time acknowledged that the prevailing terminology regarding concussion (and linking it to loss of consciousness) had been so confusing that British neurosurgeons recently have recommended abandoning its use. A definition developed by the 1964 Congress of Neurological Surgeons reads: 'brain concussion – a clinical syndrome characterized by immediate and transient impairment of neuro-function, such as alteration of consciousness, disturbance of vision, equilibrium, etc., due to mechanical forces.

126. At this Miami symposia series, football neurosurgeon Dr. Schneider—cited in researcher's work at Defendant NFL's "Football Injuries" symposium—also presented on the significant number of professional football deaths related to the ineffectiveness of the current plastic helmet. These deaths, and a spate of litigation threatened the helmet industry and therefore Defendants as a whole, primarily due to acute, so-called "serious head-injury", or skull-fracture / brain-bleed.

127. Thus, by the early 1960s, the Defendants were also on notice of effectively two problems: severe (acute) head trauma; and subclinical / clinical MTBIs causing latent or chronic disease processes, which (images of modified Riddell helmet and facemask below for hall of fame player Willie Lanier) they unequivocally already were aware of, yet powerless against:



128. The Defendants opted to improve helmet performance as to skull fracture and brain-bleed; this was the focus of litigation Defendants faced at this time (i.e., the 1960s and early 1970s.) Unfortunately, in doing so, Defendants created a game of hard-shell-helmeted football for the sport, which, like boxing, was fundamentally a game of sub-concussive blows on every play. Defendants had explored—and would continue to hear suggestions for exploring—the soft-shell helmet (*pictured above*).

129. The 1969 "Football Injuries" symposium actually specifically recognized this choice, and contained a presentation advising *against* creating helmets with these massively hard shells (essentially crash helmets.) In fact, a presentation in this symposium also contained a recommendation to revise failure metrics to account for a series of lower-impact blows, in direct contrast to the prevailing major-high-speed motor-vehicle-accident crash standards.

130. Notwithstanding the softer-shell design's clear ability and/or potential to better absorb repetitive blows, aesthetic concerns trumped health concerns, and the designs never caught on. Nor were they advanced with support from Defendants. Defendants opted to focus on solving the other problem (acute traumatic head injury) while—in the face of recognition that this other (even more pervasive) problem existed—knowingly making it worse.

131. In further response, Defendant Riddell would acquire concussion and head-injury related patent technology also in this time-frame, including soft-shell technology, that it would—upon information and belief—continue attempting to develop.

132. Defendants, specifically Defendant NFL, first participated in this helmet efficacy studies that evaluated the ability to test for "brain damage" in professional football players at the conclusion of the 1961-62 NFL season, specifically in the NFL's Pro Bowl.

133. Dr. Reid furnished Defendants and all helmet manufacturers with regular progress reports and would detail several key findings over the coming 15-plus years: 1) radiofrequency evidence of brain damage; 2) evidence of brain damage in the absence of concussion; and 3) investigation of a "cumulative effect" from repeated blows to the head.

134. Also by the early 1960s, Defendants NFL and Riddell had been working with automotive industry and biomechanics leaders, a great number of them from Wayne State University to serve as de *facto litigation-avoidance consultants*, even-at times-exchanging resources with the United States military.

135. Defendants and the government would explore connections between sub-concussive blows and latent disease, gaining the actual knowledge that repetitive blows to the head in football caused long-term consequences, along with the knowledge that helmets were ineffective to protect the problem.

136. Defendant NFL, having grown its trade association to new heights after acquiring its sole competitor, engaged branches of the United States Military to meet in 1969, with luminaries from leading medical schools, the United States government, NFL clubs, football coaches such as legendary Don Shula, NFL team trainers such as Jim Van Deusen, eventual NOCSAE leaders, Wayne State University biomechanics experts, Harvard psychiatrists,

neurologists, and leading sports medicine doctors to discuss the growing problem of "Football Injuries," focusing largely on head injuries. At that time, Commissioner Rozelle's office and the government sponsored this "Football Injuries" symposium, where the focus was head injury. Included in 27 presentations were researchers from Wayne State University, notably biomechanics expert Dr. Voigt Hodgson and including:

- Dr. Lawrence M. Patrick – "Establishing Human Tolerance Levels for Injury";
- Col. John P. Stapp – "Human Tolerance of Impact";
- Drs. Voigt Hodgson, E.S. Gurdjian, and L.M. Thomas (Wayne State University Biomechanics) – "Mechanical and Human Factors Related to Head Impact";
- Dr. Stephen E. Reid – "Radiotelemetry Study of Head Injuries in Football";
- Dr. Howard Knuttgen – "Psychological Basis of Performance and Physical Condition Testing";
- Dr. Thomas Holmes III – "Psychologic Screening";
- Dr. Chester M. Pierce – "Effect of Fatigue and Mental Stress on Performance";
- Dr. Austin Henschel – "Effects of Heat on Performance";
- Coach Don Shula and Eddie Block "Coaching, Game Skills, and Injury";
- Dr. Allan Ryan – "The Role of Protective Equipment in Injury Control";
- NY Jets Trainer Jack Rockwell-- –"The Relationship of Turf, Playing Conditions, and Equipment to Injuries";
- Victor Frankel – "Biomechanical Analysis of Football Injuries"; and,

- Vergil N. Slee – "Computerization of Injury Data".

137. Dr. Hodgson presented research on repetitive blows to the head using testing on the lightly anesthetized stump-tail monkey, finding that force: head-weight ratio predicted concussion.

138. Hodgson's work focused on predictors of concussion in stump-tailed monkeys and dog brains. Hodgson's generally Defendant-favorable work-product acknowledged what was a nearly century-old issue, according to papers he cited by German scientists: the effect of subconcussive blows. Hodgson curiously stated from his own research that there did not appear to be an observable cumulative effect from subconcussive blows in his research, but conceded that the "opposing [published] views are difficult to reconcile."

139. Defendants continued to work with Dr. Hodgson and other Wayne State disciples, whose backgrounds in crashworthiness and automotive biomechanics led to helmet technology designs and safety standards premised on motorcycle racing helmets which are not intended to diffuse repetitive forces. Instead, as a result Defendants NFL and RIDDELL developed hard scale technology for the helmets rather than soft form, defeating the very purpose for the helmets on the football field.

140. At the time of the 1969 Football Injuries Symposia, all of the cadaver studies, concussion tolerance studies on dog brains, and the helmet telemetry studies had been either shared with Defendants (or simply sponsored by Defendants in the first place). The presentations focused on the injuries suffered on the field and varied from Dr. Hodgson's presentation described above" to Dr. Charles Pierce's presentation, who that upon information and belief had

been hired to produce exactly these findings recognized the symptoms of irritability, drug abuse, emotional lability, and sleep problems in the NFL player cohort.

141. Dr. Pierce amazingly never even mentioned head injury as a possible co-morbidity; instead, he blamed these symptoms on football players wives' treatment of their husbands but did not address the latent sequelae of brain injuries suffered by repetitive head trauma. Charles M. Pierce, *Effect of Fatigue and Mental Stress on Football Performance*, National Academy of Sciences, Football Injuries: Papers Presented at a Workshop, 207-09 (1970).

142. Presentations from former Jets trainer Jack Rockwell and Jets team physician James Nicholas illustrated the earliest examples of reporting studies with flawed data. Trainer Rockwell entirely buried unfavorable data regarding injuries on turf surfaces by calling them "too inconclusive"; he referred to equipment studies as "difficult" to assess; instead, his lone recommendation for change pointed to the one thing that was beyond man-made control- the weather

143. Dr. Nicholas, relied on data stating there were only seven total concussions in the nine years of reporting data in his study.

144. Dr. Allan Ryan from University of Wisconsin presented on "The Role of Protective Equipment in Injury Control," comparing football players to dinosaurs (with bodies covered by armor yet failure to survive). In direct contravention to what had been presented to the general public by Dr. Schneider in 1964, Dr. Ryan gushed about plastic helmets, reporting that: "[w]e have a helmet that provides extraordinarily good protection compared with models [from the 1940s and 1950s but] … there are many boys who [] suffer brain damage." Dr. Ryan, however, acknowledged some poor outcomes (deaths, brain injuries, etc.) given that the advent

of this helmet had led to its unintended and inappropriate use by players. In other words, at this 1969 NFL symposia, the groundwork for a defense was being laid: any head injuries were the fault of the players themselves (or their wives).

145. Dr. Ryan made a series of key recommendations, the most important of which was to establish (what would ultimately become) the NOCSAE. And, within months of this 1969 symposia series, following recommendations made at the meetings, the National Operating Committee on Standards for Athletic Equipment ("NOCSAE") was formed. NOCSAE is a non-profit organization intended to self-regulate football helmet safety standards, however approximately 1972 measures remain materially unchanged through the present day.

146. Thereafter, Defendants established the National Operating Committee on Standards for Equipment Safety ("NOCSAE"). Its purported efforts included the development of performance standards for football helmets as well as research to better understand the mechanism and tolerance of head and neck injuries and the design and structure of football helmets.

147. In reality, NOCSAE has advanced a constituency-serving agenda, specifically that of the protective equipment industry that controls its funding and that has traditionally controlled the votes of its board of directors, and equally important, those athletic organizations dependent upon these protective equipment manufacturers for equipment certification seals.

148. NOCSAE was, and remains, self-regulating, and establishes voluntary equipment safety standards, with manufacturers testing their own equipment and then reporting results to NOCSAE to receive their certification seal. Upon information and belief, doing so serves multiple purposes: a) it buttresses a built-in defense to liability on the part of a manufacturer; b) it attempts to create a built-in defense to liability on the part of a league such as Defendant NFL

or sporting organization for allowing the usage of a specific brand or product; and, c) it serves as a preemptive strike against governmental regulation.

149. Indeed, despite its government-agency-styled name, NOCSAE receives no oversight from any bureaucratic or other independent federal or state-sanctioned agency, such as the Federal Trade Commission, Consumer Product Safety Commission, or the Occupational Safety and Health Administration. Instead, NOCSAE has strictly voluntary standards for compliance, available for adoption by any equipment manufacturer, user group, or athletic regulatory body.

NOCSAE RUBBER STAMPS INDUSTRY RESEARCH AND CREATES ITS OWN

150. NOCSAE first began research efforts regarding head protection equipment in or about 1969, establishing standards by the early 1970s that remain materially unchanged and in place to this very day.

151. NOCSAE's own newsletters reveal that "the NOCSAE standard was not created as a concussion prevention standard." Its only standard prevents skull fracture and brain bleed—or "open" head injuries—injuries require far greater impact to the skull than concussive forces or MTBI.

152. NOCSAE's stated goal has been to improve athletic equipment, and to reduce injuries through creating standards for athletic equipment.

153. NOCSAE has received significant grant funding from helmet manufacturers, Defendant NFL directly, Defendant NFL C directly, and Defendant NFL P, through NFL P's funding of these other two Defendants.

154. Specifically, NOCSAE received NFL Charities grants, and "MTBI grant" money amounting to a substantial portion of its overall grant money. In 1997 alone, NOCSAE received

a $50,000 grant to assist in the performance and underwriting of further research in the areas of football helmet protection and helmet safety performance.

155. NOCSAE also has—during significant portions of the material times referenced in this Complaint—had multiple members of Defendant NFL's MTBI committee (John Powell and David Viano) to oversee its grant dissemination. Both Powell and Viano, upon information and belief, have received financial compensation from RIDDELL and from Defendant NFL and/or Defendant NFL P and/or Defendant NFL C.

156. In 1999, NOCSAE-funded-research began investigating brain injury, specifically MTBI, sub-concussive trauma, and return-to-play ("RTP") protocols and procedures. All of this work was non-clinical research.

157. NOCSAE has in turn paid for research to the Southern Impact Research Center (the "SIRC"), which is owned, at least in part, and operated by frequent RIDDELL/MTBI Committee expert consultant R. David Halstead; both entities have directly worked with Halstead.

158. In 2000, NOCSAE announced that it had formally contracted with SIRC and Halstead to provide its licensees with resources for testing, responding to inquiries, equipment set-up, and update training.

159. In its 2003 Newsletter, NOCSAE announced that "[w]e are working on the details of a new cooperation with the National Football League for research into football concussions and related standards."

160. One year later, in another NOCSAE Newsletter in the Spring of 2004, NOCSAE ostensibly validated the findings of the conspirators' sham committee: "[t]he NFL's Committee on Mild Traumatic Brain Injuries recently published its results assessing the impact type and

injury biomechanics of concussions in professional football … The committee claims that the variance of concussive impact data by location could form the basis for future performance standards … Concussions were primarily related to translational acceleration and consistently detectable by conventional measures of head injury risk … A strong correlation existed between rotational and translational acceleration leading the committee to conclude that translational values remain sufficient for detection and standards."

161. In the same Spring 2004 Newsletter, the delay in updating helmet standards was again addressed:

> Q: Is NOCSAE on the verge of introducing new standards that may obsolete certain products now in the field? A: No. However NOCSAE is always looking for ways to improve athlete safety and routinely reviews it's standards and technology with emerging data on injuries, possible interventions and preventions that may be implemented through standards development. While NOCSAE is working diligently with the scientific community on new test methods and standards, reports of wide sweeping changes in the near future are incorrect. As the technology to measure, address and set threshold values for less serious head injury evolve NOCSAE expects to be among the leaders in implementation, but as of this writing much remains to be done before new methods and performance requirements can be incorporated with any assurance that the result will be reduced injuries.

162. Notwithstanding NOCSAE's research grants to outside sources, the scientific consensus, and representations like its statement regarding additional research with the NFL, NOCSAE has not instituted more modernized helmet certification guidelines. It finally moved the April 2004 Football Helmet Test Methodology (ND081-04m04) into "proposed" status as of January of 2006, referring all questions to SIRC head David Halstead.

163. Upon information and belief, NOCSAE Football Helmet Test Methodology remains unchanged today.

164. NOCSAE's certification testing methodology and systemic bias belie its independence and value as providing any services in the way of safety or indicia of reliability to its end-users (those who wear helmets and other equipment.)

165. Indeed, as the FAQ section of NOCSAE.org said until at least 2000, the NOCSAE certification does not immunize a breach of duty, but instead indicates an undertaking to safeguard helmet users "by purchasing helmets which meet the best available helmet standards."

166. Through 2009, NOCSAE's Newsletter notes that "NOCSAE cannot answer [] and probably should not" answer the question "which helmets provide the best protection from concussion?"

167. The NOCSAE Newsletter once again completes the circle, by saying "the conclusion as to which helmet does a better job in reducing or preventing concussions is better addressed by the manufacturers." In fact, NOCSAE prohibits licensees from even releasing the qualitative data point on certification that would indicate relative quality.

168. Stated differently, Defendants have agreed to be bound by this third-party rule prohibiting the public release of their qualitative data points on certification.

169. End-users (e.g. those who wear the helmets) themselves and intermediaries are deprived of the ability to understand their relative risks so long as they wear helmets made by makers abiding by these NOCSAE rules.

170. Upon information and belief, the NOCSAE standards have remained unchanged because the RIDDELL Defendants have desired this, having substantial voting power on the NOCSAE Board of Directors, and have financially incentivized NOCSAE accordingly.

171. The divergence between NOCSAE's stated mission and underlying agendas appears clearest in the composition of those NOCSAE Board members and top advisors with ties to the protective equipment industry.

172. RIDDELL/All-American President Don Gleisner served on the Board during the time-period of the NFL's MTBI Committee's creation while working in the Chicago, Illinois headquarters.

173. At all material times, including, but not limited to, the time period of the MTBI Committee's creation, at least two board votes would be controlled by the Sporting Goods Manufacturing Association, now known as the Sports & Fitness Industry Association.

174. At all material times, including, but not limited to, the time period of the MTBI Committee's creation, at least one board vote would be controlled by a representative from the American Football Coaches Association or the College Football Association.

175. At all material times, including, but not limited to, the time period of the MTBI Committee's creation, at least two board votes would be controlled by the Athletic Equipment Managers Association.

176. At all times material, including, but not limited to, the time period of the MTBI Committee's creation, NOCSAE's research director was J.J. "Trey" Crisco, whose research on helmet telemetry for Simbex, LLC was purchased and acquired by RIDDELL.

177. At all times material, including, but not limited to, the time period of Defendant NFL's MTBI Committee's creation, the NOCSAE's technical advisor has been and remains frequent RIDDELL/NFL expert witness and paid consultant R. David Halstead.

178. The conspiratorial nature of the relationship between RIDDELL Defendants, NFL and NOCSAE was substantiated in the deposition testimony of RIDDELL's paid expert Halstead, who stated that "the NFL and NOCSAE try pretty hard to work together," which Halstead explained in deposition while testifying that "I work with the NFL Committee on Mild Traumatic Brain Injury … typically through NOCSAE."

179. In 1969, co-conspirator NFL, concerned about its own liability, commissioned the Stanford Research Institute ("SRI") to study concussions and other injuries, as sustained on grass versus Astroturf. *See* Cooper Rollow, *NFL Takes Steps To Curb Injuries*, Chicago Tribune, June 28, 1973, Sec. 3 at 2.

180. The NFLPA would expose what it discovered of this largely concealed study as self-serving and false. *See* Garvey, *Study Totally Inadequate Players Group Criticizes Turf Report*, (AP) June 29, 1973. It would later be discovered by Sports Illustrated that the Stanford Research Institute study found 9.4% of injuries had been caused by helmets. Underwood, John, *An Unfolding Tragedy*, Sports Illustrated, August 14, 1978.

181. Some minimal rule changes to the pro game would be made to the game subsequent to the SRI/NFL study, but co-conspirator NFL never acted on the issues of mild-traumatic brain-injury ("MTBI"), concussive exposure, or simply repeated blows to the head ("sub-concussive" blows or exposure) based on the study's results. This was true, even with what was nearly a half-century of scholarship and research having been conducted by this time-period, both on repetitive blows to the brain, and also on football helmet technology.

182. By the late 1970s, only three helmet manufacturers remained in business, with the RIDDELL Defendants' then-president openly worrying that litigation could end football.

183. In or around 1982, the RIDDELL Defendants' president publicly proposed the formation of a player compensation pool. He called this the "Sports Rehabilitation Foundation", proposing it be funded by the National Football League, to provide support payments to high school, collegiate, and professional football players permanently injured during football play. In return for this compensation, players would waive their rights to sue helmet manufacturers. *See* Appelson, G., *Helmet Maker Proposes Football Injury Pool*, 68 A.B.A.J. 136 (1982). An NFL committee was tasked with studying financing for the proposed pool, including ticket surcharges, network contributions, or charges to the players. *Id.*

184. By 1983, upon information and belief, at least some helmet's warnings were amended to state the following:

> Do Not Use This Helmet To Butt, Ram, or Spear an Opposing Player. This Is In Violation Of Football Rules And Can Result In Severe Head, Brain, or Neck Injury, Paralysis Or Death to You and Possible Injury to Your Opponent. There Is A Risk These Injuries May Occur As A Result Of Accidental Contact Without Intent To Butt, Ram, Or Spear. NO HELMET CAN PREVENT SUCH INJURIES.

185. In permitting these NOCSAE guidelines, the Defendants were only warning against TBI and/or skull fracture, neither against MTBI, nor against CTE, nor against related repetitive-exposure injuries.

186. Rather than seek to *solve* football's safety problems for its players, Defendants, leaders of the football community in revenue and stature, opted for a self-serving, deliberate, and forward-thinking approach: enlisting the help of other corporate entities and individuals.

DEFENDANTS NFL P AND RIDDELL FORMALLY JOIN FORCES

187. In or before 1989 (as some dates suggest April of 1988 and other research points to 1989), RIDDELL agreed to a joint-venture with NFL P regarding football helmets that would

preserve RIDDELL's financial health and where RIDDELL would provide assistance to NFL football in the form of assistance with liability-limiting junk-science and propaganda, all minimizing the risks of repetitive head injury and concealing the risks of CTE from those playing the game.

188. The workers-compensation-like scheme proposed by Riddell did not materialize, its proposal coinciding with a time during which the NFL co-conspirators faced a series of unique, first-of-their-kind challenges: significant forced changes to the insuring and re-insuring of its workers' compensation scheme, after the winding up and eventual liquidation of an underfunded, off-shore, captive mutual insurance carrier (NFL Insurance Limited- *see The Travellers Ins. Co. v. Chicago Bears Football Club, Inc.*) left open questions on work-related-injury liabilities; labor unrest with the NFLPA and the absence of a collective bargaining agreement between ownership and players; and, a bizarre cluster of football players, Matt Hazeltine, Gary Lewis, and Bobby Waters, all diagnosed in the same window of time (the early 1980s) with Amytrophic Lateral Sclerosis ("ALS" or "Lou Gerhig's Disease"), all of whom played together on the San Francisco 49ers, and all of whom had died by 1987.

189. In this 1980s time-period, through co-conspirator NFL C, at least one neurologist, Dr. Stanley Appel, MD, received a sum, believed to be $125,000, to research linkage between the three incidences of ALS (or CTEM) on the same NFL team.

190. Upon information and belief, Dr. Appel received this grant money *not* to undertake good-faith scientific study, but instead, to support Defendants self-serving and pre-determined conclusion that no such link existed.

191. Dr. Appel had, according to tobacco industry memoranda, agreed to perform favorable tobacco-industry research during the same time-period as his NFL research. He has

since become an outspoken critic of the generally accepted scientific connection between trauma and ALS-like symptoms.

192. Beginning *at latest* by the spring of 1990, Defendants engaged in the multi-decade conspiracy to limit their own tort liability by concealing and/or misrepresenting and/or omitting information about head trauma and football from the football community; along with its co-conspirators, including but not limited to: NFL, NFL Properties, Inc., NFL Properties, LLC, NFL Charities, the RIDDELL Defendants agreed to engage in a long-term plan to conceal material information about football's link to CTE and other neurological/neurobehavioral conditions, while doing so in the name of solving safety problems for its game's players.

193. Upon information and belief, on April 11, 1988, RIDDELL and co-conspirator NFL Properties, Inc. ("NFL P"), the licensing arm of the NFL and successor-in-interest to NFL Properties LLC, embarked on the aforementioned joint venture. RIDDELL agreed to serve as exclusive helmet provider to the NFL co-conspirators:

194. In return for providing free helmets, pads and jerseys to each NFL team, RIDDELL would receive the exclusive right to display its logo during NFL games on the helmets of those players who choose to wear the RIDDELL brand. The tradename — the word 'RIDDELL' — can be seen in the front of the helmet on the 'nose bumper', on the side of the helmet on the chin strap, and in the back of the helmet at the helmet's base. While NFL players remain free to wear the helmet of their choice, the Agreement stipulates that manufacturers' logos other than RIDDELL's must remain covered during league play … in order for an NFL [team] to be eligible for all the free and discounted equipment from RIDDELL, at least 90% of its players must use RIDDELL helmets."

195. So powerful was this agreement that RIDDELL's chief competitor made it the subject of antitrust litigation. *Schutt Athlet. Sales Co. v. RIDDELL, INC.*, 727 F. Supp. 1220, 1222 (N.D. Ill. 1989).

196. Former RIDDELL president J.C. Wingo would state in 2013 that the purpose of the RIDDELL-NFL exclusivity deal was "to ensure a viable survivor in the helmet industry." *See* Helyar, John "Helmets Preventing Concussion Seen Quashed By NFL-RIDDELL", Mar. 18, 2013, Bloomberg Business.

197. As further consideration for RIDDELL's exclusivity agreement with the NFL, RIDDELL was permitted to sell NFL-branded mini replica helmets as souvenir items, upon information and belief, a multi-million-dollar market over which the NFL had now given RIDDELL an exclusive market-share, in exchange for RIDDELL's participation in its conspiracy.

DEFENDANTS' MTBI COMMITTEE IS PLANNED AND FORMED

198. By the early 1990s, the emerging scientific consensus and the constellation of these problems forced Defendants to take a different approach to the growing problem of MTBI-caused acute injury and latent disease in existing and former football players, respectively.

199. On October 20, 1992, Commissioner Paul Tagliabue received a hand-written letter from Arthur J. Stevens, General Counsel for Lorillard Tobacco company, Tobacco Institute Executive Committee member, and head of the industry's "committee of counsel." The letter copied Lorillard co-owners then-New York Giants co-owner P.R. Tisch and Andrew Tisch. It advised on updates regarding the crime-fraud exception in the context of exposure-injury litigation.

200. Upon information and belief, it was at this time that Defendant NFL had begun recognizing large numbers of its players were developing chronic brain damage from football, and paying disability money and workers' compensation money for this. In addition, the Giants had recently borne witness to a high-profile concussion, when, on September 7, 1992, 49ers quarterback Steve Young was knocked out of the Giants game due to a concussion.

201. Covington and Burling litigator Paul Tagliabue, recently named NFL Commissioner, publicly dismissed the league's concussion issues as "pack journalism", saying that the NFL experienced "one concussion every three or four games," though privately, he had begun implementing a long-term, litigation-defense strategy.

202. In this way, the MTBI Committee's creation served to: a) drag the fact-finding process out; b) cast doubt on football-related causation altogether by blaming co-morbidities; c) attempt to distinguish NFL-causation from pre-NFL causation; and d) conduct bad-faith harm-reduction research in the form of exploring improvements to equipment changes and game conditions that conspirators, committee members, behind-the-scenes scientists and attorneys knew would not actually result in material health benefits for players, but did create a false sense of security in Plaintiffs and others.

203. The original roster comprising this committee, purportedly independent and composed to research the issues of concussion in football in good-faith, revealed this group to be the opposite: It was in fact a biased and/or ill-qualified who's-who list of NFL insiders and professional expert witnesses.

204. The original Committee contained Elliott Pellman (Jets Doctor); Andy Tucker (Browns Doctor); Jay Brunetti (Redskins equipment manager); Ira Casson (New York neurologist / defense expert witness); Doug Robertson (Colts doctor); Mark Lovell (Steelers

neuropsychologist); Henry Feuer (Colts doctor); Albert Burstein (RIDDELL affiliate - biomechanics); John Powell (NFL injury database proprietor); Joseph Waeckerle (Chiefs doctor); Ronnie Barnes (Giants trainer); Bob Reese (Jets trainer); Dean Blandino (NFL referee); and former Tobacco-Institute-counsel-turned-NFL-attorney Dorothy Mitchell.

205. The MTBI Committee first met collectively in February of 1995 in Indianapolis, where they arrived at a consensus definition for "concussion."

206. Committee Member Albert Burstein had worked largely as a consultant for numerous pharmaceutical and biomedical corporations prior to his working on the NFL's MTBI Committee. Most importantly, Burstein worked regularly as a defense expert witness for RIDDELL on numerous personal injury/product liability litigation matters concurrent with his time as a member of the purportedly "independent" MTBI Committee.

207. In just one of the numerous instances that Committee Member Burstein provided paid-for trial testimony on RIDDELL's behalf while serving on the conspirators' sham committee, in *Arnold v. RIDDELL, INC.*, 882 F. Supp. 979 (D. Kan. 1995), Burstein opined that the cause of a football player's paralysis would have remained unchanged regardless of the specific helmet type he had worn.

208. Pellman and the Committee agreed to drive out any potentially successful competitor products to the RIDDELL products, even ones that were scientifically tested and believed to provide players with substantial benefit.

209. NFL lead spokesman Greg Aiello has acknowledged that Commissioner Paul Tagliabue received personal medical care on an ongoing basis from Dr. Pellman over the course of a decade.

210. Committee Member David Viano, PhD, offered purportedly for his background on biomechanics and helmet safety was primarily an employee of General Motors at the time of his appointment and not a professor at Wayne State University as represented.

211. Committee Member Dr. Viano left GM in 2002, and has received the bulk of his income over the course of his life as a defense-side expert witness in product-liability actions, primarily testifying on issues of crashworthiness in automotive industry; Committee Member Dr. Viano and his shell corporation received an amount believed to be approximately $200,000 per year from NFL Charities in "MTBI Grant" money; Michigan State University's department of kinesiology, where MTBI Committee member John Powell, PhD (athletic trainer) was employed, received upwards of $50,000 per year; University of Pittsburgh Medical Center, where MTBI Committee member and Pittsburgh Steelers' neurologist Dr. Joseph Maroon practiced, received upwards of $50,000 per year MTBI grant money.

212. Committee Member Mark Lovell, PhD, a business partner of Steelers team neurologist and fellow MTBI Committee-member Joseph Maroon, M.D had a significant corporate interest in selling his controversial product "imPACT! Sideline concussion assessment tool" to the NFL

213. In fact, during the 1990s, the MTBI Committee would sponsor neuropsychological testing research through Alleghany College, where Dr. Mark Lovell worked.

214. Upon information and belief, it was the MTBI Committee and Defendants NFL and NFL C that sponsored the concussion-assessment tool now known as ImPACT, and owned by Drs. Joseph Maroon, Mark Lovell and Mickey Collins-all with MTBI Committee and Pittsburgh Steelers links.

215. As made clear in a technical paper at a biomechanics conference, this computerized neuropsychological testing battery "was **based upon the observation that the underlying basis for many of the frequently cited cognitive symptoms associated with mild diffuse brain injury (attention, memory and concentration issues) is actually an impairment in information processing**." In other words, Defendants, through the MTBI Committee, created and/or supported ImPACT Computerized Neurocognitive Testing, which was literally designed with the assumption that reported symptoms were caused by co-morbidities and not MTBI.

216. Around this same time, the MTBI committee began—it claimed—monitoring MTBI data of the NFL's clubs and publishing a number of technical papers in the 1990s presented at the International Research Council on the Biomechanics of Injury ("IRCOBI").

217. The "IRCOBI Papers" were the fruits of early "MTBI Grant" money funneled from Defendant NFL and RIDDELL either through NFL Charities or directly to a series of expert consultants, who were effectively pre-litigation defense-side expert witnesses:

- Exponent Failure Associates (Drs. Robert Fijan and Reid Miller);
- Biokinetics, Ltd. Canada (James Newman et al);
- Dr. Lawrence Thibault;
- Dr. David C. Viano;
- Alleghany University;
- Wayne State University's Biomechanics Lab (Dr. A.I. King et al);
- Albert I. King, Inc.; and
- Duke University's Dr. James McElhaney.

218. One of these early, principal IRCOBI papers sponsored by the MTBI Committee validated the RIDDELL VSR-4 helmet over the rival Bike technology in order, upon information and belief, to validate the agreement between NFL/NFLP and RIDDELL which otherwise would have been fraudulent on its face.

219. The early IRCOBI papers in the 1990s also studied mouth-guard research for concussion, concluding falsely that proper use of a mouth-guard could impact MTBI.

220. In the 1990s, this work principally, with the MTBI Committee's financial backing, laid the groundwork to advance Defendants' bottom line, introduced computerized neuropsychological testing protocol into the NFL, and published a series of otherwise (even more) highly suspect research in peer-review journal *Neurosurgery* during the2000s.

221. These papers validated the "Hybrid-III" testing dummies as the means to test concussion and forces to the head and neck in football players, which was on its face a questionable approach given that these dummies were stiff and unlife-like when compared to the human head/neck, which bent and torqued.

222. The early papers also validated the "viscous criterion VC" injury model advanced by Viano in his research to justify the otherwise unjustifiable NOCSAE standards.

223. More early work was used to advance and/or validate neuropsychological testing protocol. This specifically included the computerized neuropsychological testing research done by Alleghany University, designed to create a "concussion severity index."

224. Involved in this work were Exponent Failure Analysis expert consultants Drs. Robert Fijan and Reid Miller as creators of the above-referenced neuropsychological testing protocol, which admittedly proceeded from the underlying premise that examinees had not suffered diffuse brain injuries but instead simply had many of the frequent comorbidities

associated with diffuse brain injuries: attention deficit, memory loss, concentration difficulties, and impaired information processing.

225. Upon information and belief, the Allegeny protocol involved only five teams and tested only one of five injured players yet, it became the underlying basis for the scientific justification for ImPACT Concussion Assessment Tool, used to validate the RIDDELL Revolution Helmet and in multiple papers published in *Neurosurgery* by the MTBI Committee.

226. The MTBI Committee knowingly published papers in peer-reviewed journals basing conclusions on factually unsupportable claims (based upon the data they had), or cherry-pick data in order to support the conclusions that the committee sought. It was also this committee that would test, sponsor, and verify with neuropsychological testing, what would become the RIDDELL revolution helmet.

COMMITTEE CHAIR APPOINTMENTS CONTRAST THE MTBI CONSPIRATORS' STATED GOAL OF INDEPENDENT SCIENTIFIC RESEARCH WITH THEIR ACTUAL GOAL: TORT LIABILITY PROTECTION FOR NFL FOOTBALL

"INDEPENDENT" MTBI COMMITTEE'S CHAIR ELLIOT PELLMAN, MD 1994-2007

- Disclaimed, on behalf of *any* committee members, any "financial or business interest that poses a conflict" to the MTBI Committee's research in *Neurosurgery* notwithstanding his (and others) numerous league ties and salaried positions such as NFL Medical Director / Jets Doctor / Chaired NFL Physician's society, NFL Injury and Safety Panel, and a personal physician to Commissioner Tagliabue;
- Commingled MTBI grant funds funneled from NFL Charities, with Riddell money and used it on sham helmet-safety research between 1997-2000, the purpose of which was to develop a product—a defective one, tested through knowingly ineffective means—for the NFL and Riddell's mutual commercial benefit after misrepresenting study results;
- Represented, in a meeting on May of 2009, on CTE pathology and helmet safety, between MTBI Committee members, NFLPA medical and player representatives, NFL league officials and attorneys, experts, and scientists from BU, that "[t]he sponsorship of Riddell should have nothing to do with making decisions … we want [Riddell] to help in terms of fitting, but we would prefer the data come [from elsewhere] … So we in fact do coach people how to speak in terms of liability, particularly when it comes to your history or history of concussions";
- Acknowledged, in *Neurosurgery* papers, the legal contributions to the MTBI Committee's work, including that of NFL general counsel Jeff Pash, and of Covington/former NFL counsel Dorothy C. Mitchell, who had "worked tirelessly to initiate the research … her efforts paved the way for successful completion …";
- Ethical and competency questions include: wrongful death lawsuit; lying on his cv; and allegations he conspired with others to falsify data from studies.

REPLACEMENT MTBI COMMITTEE CO-CHAIRS UNTIL DISSOLUTION

IRA CASSON, MD	**DAVID VIANO, Med. PhD**	**PELLMAN**
Co-Chair 2007-2010	**Co-Chair 2007-10**	**Remained on Committee**

- Casson and Viano replaced Pellman in co-chair roles in 2007 until their forced resignation in 2010, although new committee invitee Dr. Jeffrey Kutcher still thanked Dr. Pellman for his committee appointment in his written Congressional testimony on January 4, 2010;
- Casson and Viano were absent from 2007 Congressional hearings as committee co-chairs;
- Viano was credited as a Wayne State University professor in MTBI research while in fact a GM employee at the time he began doing work for the MTBI Committee, and subsequently—according to sworn testimony—employed jointly by Riddell and the NFL as an "equipment safety specialist" pursuant to the Riddell/NFL P Agreement when chairing the MTBI committee;
- Viano's deposition testimony reveals defendant-only expert income into the tens of millions;
- Viano's early technical papers reveal he has acknowledged repetitive head trauma causes CTE;
- Casson's scholarship in boxing acknowledges the link between repetitive head trauma and CTE;
- Casson responded to allegations his committee excluded major data samples for controversial study conclusions by saying "[w]e came up with data that is the truth about what happens in the NFL." Football Concussion Controversy Highlights Gaps In Research, Consensus, *Nervecenter: Annals of Neurology* at A15. May 2007 (noting the contrast between the published papers and the "emerging scientific consensus");

- Casson: eventually did testify before Congress that "there is not enough valid, reliable, or objective scientific evidence at present to determine whether or not repeat head impacts in **professional football** result in long-term brain damage".
-

227. Just as the Council For Tobacco Research was recognized as having done, the MTBI Committee funneled NFL and NFL C money to a number of outside consultants it had heavily vetted for the purpose of providing favorable conclusions.

228. It worked closely during early years with Dr. Lawrence Thibault, a notable biomechanics expert in Philadelphia who had opined that so-called "shaken-baby" syndrome did not actually exist; babies did not suffer from such repetitive-type Dr. Thibault would argue, but instead would suffer from acute and specific blunt-force traumatic events.

229. The committee would also engage Dr. Cynthia Bir later, Dr. Bir was a biomechanics expert who had significant experiences working in boxing, which the MTBI committee worked hard to distinguish from the sport of football.

230. The MTBI Committee funneled significant money to R. David Halstead, a football-helmet tester who worked at his own lab in Tennessee (the Southern Impact Research Center or "SIRC") and at the University of Tennessee Knoxville Biomechanics Laboratory to validate and test helmets pursuant to NOCSAE standards. Halstead has no college degree and has lied on that point multiple times in federal-court depositions.

231. As alleged elsewhere, the MTBI Committee spent significant dollars on General Motors expert witness and biomechanics expert Dr. David Viano. Viano came up with many of the principal theories advanced by the committee: that football injuries are biomechanically different than boxing (where chronic brain injury was clinically proven); and that testing metrics and standards were valid.

232. The MTBI Committee was a joint enterprise by Defendants and undertaken for the following purposes: a) to create a body of self-serving non-clinical science on MTBI and blows to the head; b) to provide a scientific basis for the underlying test metrics used in safety-equipment design; c) to provide a scientific basis for the underlying test metrics used in safety-equipment research; d) to provide non-clinical (e.g., scientific research) to interested parties making decisions with football players who could be accused of legally causing these players' chronic brain damage and/or latent brain disease(s); and e) to develop and validate a neuropsychological test battery which, in conjunction with football players' purported subjective symptoms, could justify otherwise unjustifiable decisions by clinicians to clear such players to play football.

233. In the face of growing knowledge of the risks and dangers of latent brain disease caused by repetitive concussions and sub-concussive blows in the 1980s and 1990s, Defendants and others agreed to conceal, omit, and misrepresent material information from the general public about this link between repetitive head trauma and chronic brain damage.

234. Defendants, through this purportedly independent and un-conflicted (save for Dr. Mark Lovell's work) "MTBI Committee" eventually worked with international corporations such as Honda and even with our own federal government in perpetrating a massive fraud that included but was not limited to the following:

- Funneling "MTBI grant" money to reputed defense-expert firm Exponent Failure Analysis, Inc., which has previously argued that secondhand smoke does not cause cancer, to devise neuropsychological test protocol under Dr. Robert Fijan, PhD;

- Funneling several hundred thousand dollars per year through the NFL C and NFL to David C. Viano (and/or his corporations ProBiomechanics, LLC and/or The Institute for Injury Research), a professional defense-side expert in the automotive industry who spent his entire career testifying for General Motors and other auto

manufacturers in product liability lawsuits and has made millions of dollars doing it;

- Awarding payouts into the millions of dollars through the Bert-Bell/Pete Rozelle NFL Disability Plan for Total & Permanent Disability through the 1990s for living NFL football players diagnosed with chronic traumatic encephalopathy and other similar diseases;

- Funneling "MTBI grant" money to NOCSAE to support self-serving research endeavors;

- Publishing a total of 16 papers in the peer-reviewed journal Neurosurgery on "Concussion in Professional Football" premised on knowingly false data sets, which peer-reviewers and the *New York Times* and ESPN all debunked;

- Agreeing with Defendant RIDDELL to provide the safest possible football helmets licensed as the "official helmet of the NFL" with the RIDDELL name, while knowing that none of these helmets warned against the dangers of latent disease;

- Acknowledging in the 1990s that New York Jet, Al Toon's repetitive concussions had a "cumulative impact;"

- Attempting to create a fraudulent "concussion severity index" in the 1990s;

- Knowingly relying upon false data in concussion "epidemiology" research;

- Funneling money through the NFL's 501(c)(3) arm, NFL Charities to the fraudulent "MTBI committee" to support RIDDELL helmet products as superior, through flawed research at and with Wayne State University professors and those professors' expert-witness corporations (*e.g.*, Albert I. King, Inc.).

235. Indeed, Defendants—all of whom assumed some form of financial responsibility relative to this undertaking—wrote that their published sham-science journal articles that made notoriously false conclusions on brain injury applied not merely to NFL players but also to teenagers and children; NFL Commissioner Roger Goodell testified to Congress that "[w]e recognize that our example extends to all young athletes who play football" and further bragged

in support that they had shared and publicized the controversial, and later-discredited MTBI Committee research. The concealment and misrepresentations and omissions related to severe neurological risks of repetitive subclinical and clinical MTBI exposed players like Robinson Jr. to dangers he could have avoided had the Defendants provided truthful and accurate information.

236. Through the years, the Conspirators' MTBI Committee made a series of unsupportable claims in their peer-reviewed papers in *Neurosurgery*, which took significant criticisms including, but not limited to, the following:

a. Drs. Pellman and Viano stated, that because a "significant percentage of players returned to play in the same game [as they suffered a concussion] and the overwhelming majority of players with concussions were kept out of football- related activities for less than 1 week, it can be concluded that [MTBIs] in professional football are not serious injuries";

b. Players who suffered a concussion were not at greater risk of suffering future concussions (2004). One independent doctor wrote that "[t]he article sends a message that it is acceptance to return players while still symptomatic, which contradicts literature published over the past twenty years suggesting that athletes be returned to play only after they are asymptomatic, and in some cases for seven days,";

c. "Players who are concussed and return to the same game have fewer initial signs and symptoms than those removed from play. Return to play does not involve a significant risk of a second injury either in the same game or during the season."

d. Therefore "these players were at no increased risk" of subsequent concussions or prolonged symptoms such as memory loss, headaches, and disorientation.

e. There was "no evidence of worsening injury or chronic cumulative effects of multiple [MTBI] in NFL players."

f. NFL players did not show a decline in brain function after a concussion;

g. Neuropsychological testing was not helpful for evaluating MTBI in NFL players (in a paper written by Dr. Lovell, who developed the imPACT test);

h. were no ill effects among those who had three (3) or more concussions, or who took hits to the head that sidelined them for a week or more;

i. "No NFL player experienced the second-impact syndrome or cumulative encephalopathy from repeat concussions;" and

j. NFL players' brains responded and healed faster than those of high school or college athletes with the same injuries.

237. At the same time, Defendants continued to market, as it had in the past, the ferocity and brutality of the sport that led to the latent and debilitating neuro-cognitive conditions and injuries from which Plaintiffs now suffer and for which are at high risk of developing in the future.

238. Former General Counsel Richard Lester's testimony in *Stringer v. NFL* suggests that MTBI Committee head Dr. Viano may have served in a joint-employment capacity by RIDDELL and NFL pursuant to the licensing agreement and conspiratorial agreement while also serving as the Chair of NFL's MTBI Committee; his testimony makes clear, regardless that this agreement provides for a joint employee of RIDDELL and NFL.

239. In one example, the Committee conspired to keep non-RIDDELL helmet, the Bike Pro Edition helmet, which NFLPA President Trace Armstrong had worked to develop as a technological advancement, out of the League. www.bloomberg.com/news/articles/2013-03-18/helmets.

240. The Committee also scuttled the use of the ProCap product (a soft outer shell for helmets intended to reduce MTBIs), reportedly without regard to its potential benefits. *Id.*

THE MTBI COMMITTEE'S FRAUDULENT WORK

241. Fundamentally, the MTBI Committee's published scientific conclusions (as referenced above) rested on (knowingly) incomplete underlying data and test-validation studies performed by paid-for experts.

242. Through MTBI Grant money from co-conspirator NFL Charities, Steelers/UPMC Neuropsychologist Mark Lovell was charged with developing the subsequent neuropsychological testing protocol for the NFL. Upon information and belief, these tests were intended to serve as a supposed objective basis to justify team physicians' and coaches' otherwise inappropriate return to play decisions with respect to concussed players. As long as the teams could match a player's lack of subjective complaints with testing data (which had alarmingly inaccurate false positive AND false negative rates), the club or team or college would then not be to blame for injuries suffered by the players.

243. The other major study occurring at this time by the conspirators was the Brain Injury Surveillance Study. Pellman ordered all 30 teams to keep accurate records of their concussed players each week, and to submit this data to John Powell's registry for logging. During a later presentation, then-Jets neuropsychologist William Barr made clear that a substantial portion of reported neuropsychological testing data sets had never been used (if not entirely discarded). Barr would be dismissed thereafter, for speaking out on this point.

244. The Brain Injury Surveilance study also relied upon *actually fraudulent* data on concussions. While the papers in *Neurosurgery*, in very limited fashion, acknowledged a source of unintentional error deemed minimal, with respect to the non-reporting of undiagnosed concussion, in fact entire NFL teams had declined to submit data on concussions. Some of these omissions included the Dallas Cowboys, which omitted the highly publicized and nationally televised concussion of Troy Aikman. Indeed, literally hundreds of diagnosed concussions were excluded from the study, referenced in multiple papers in *Neurosurgery*.

245. The MTBI Committee failed to include hundreds of neuropsychological tests done on NFL players in the results of the Committee's studies on the effects of concussions and was selective in its use of injury reports.

246. For example, in a paper published in *Neurosurgery* in December 2004, Dr. Pellman and other MTBI Committee members reported on the baseline data for 655 players and the results for 95 players who had undergone both baseline testing and post-concussion testing. The authors concluded that NFL players did not show a decline in brain function after suffering concussions. Their analysis also found no ill effects among those who sustained three or more concussions or who sustained a concussion that prevented them from playing football for a week or more. The paper additionally excluded at least 850 baseline tests, but did not explain why.

247. Upon information and belief, Dr. Michael Apuzzo, then-editor of *Neurosurgery*, referred to acknowledge the NFL paper-series as good scientific work.

248. Less than a year after Dr. Burstein's testimony in *Arnold*, in 1996, the conspirators' purportedly independent committee agreed to jointly engage the services of the Canadian consulting firm, Biokinetics and Associates. Biokinetic Associates, Ltd., to conduct research into helmet safety standards along with Defendant RIDDELL, which paid for the pendulum used in the testing.

249. This study, that NOCSAE denied was funded jointly by RIDDELL and the NFL charities, using MTBI grant money, was in fact funded by these entities, according to the internal work-product deliverables from the study itself.

250. The MTBI Committee studied and recreated videotaped concussive impacts from real NFL play at Biokinetics' lab, using a new pendulum technology and "Hybrid-3 dummies," which were reportedly innovations used to evaluate human tolerance to MTBI under a metric

called "Head Impact Power" Index (HIP). This began in 1995 and occurred in two parts within a five year period.

251. In part one of the study, Biokinetics, on behalf of and/or in concert with Defendants, evaluated how helmets responded to "potentially concussive" hits. As was known then by the conspirators, concussions occur through both linear-force injuries and also through rotational injuries. The proposed HIP metric provided a preliminary means through which to evaluate rotational injury.

252. Biokinetics reviewed video of approximately 100 concussive hits to determine which hits to study and attempt to reproduce them.

253. The lab then focused on reproducing 12 impacts for the test, 9 hits were concussive in nature.

254. Specifically, helmets were evaluated for concussion using NOCSAE metrics designed for death/skull fracture/brain bleed/paralysis injuries (TBI injuries.) The metric that NOCSAE relied on for evaluation had been developed at Wayne State University in the context of automotive crashes and was called Severity Index ("SI").

255. In part one of the two-part study at Biokinetics, the SI metric was acknowledged as not being a concussion metric. Specifically, the authors wrote "the reader is reminded that the NOCSAE and ATSM failure criteria are intended to reflect serious head injury, rather than concussion." Withnall, C., *A New Performance Standard For Mild Traumatic Brain Injury (MTBI)*, Nov. 15, 2000, *RR00-22* Memorandum to RIDDELL, Inc. at 10 (Part One).

256. Part one concluded that "maximum power could remain a strong predictor of concussion even in the absence of complex rotational acceleration recordings." Withnall, C., *A New Performance Standard For Mild Traumatic Brain Injury (MTBI)*, Nov. 15, 2000, *RR00-22*

Memorandum to RIDDELL, Inc. at 11 (Part One). Stated differently, the report concluded that being hit extremely hard head-on was a strong measure of concussion, even if there was not an adequate way to measure the sheering, angular –type injuries consistent with many football concussions.

257. In part two of the two-part study at Biokinetics, the helmets were knowingly tested under insufficient temperature conditions to properly evaluate energy attenuation of the helmet's liner system. This was even acknowledged in the study. *See* Withnall, C., *A New Performance Standard For Mild Traumatic Brain Injury (MTBI)*, Nov. 15, 2000, *RR00-23*, Memorandum to RIDDELL, Inc. at 10 (Part Two).

258. The Biokinetics study also revealed concussive impact for helmets to be 95% likely at an SI value less than half (559) of the NOCSAE minimum for certification (1200); and concussive impact was still 50% likely at less than one quarter (291) of the NOCSAE minimum for certification (1200).

259. Yet, the Biokinetics memorandum did *not* conclude that the SI test was inappropriate as a metric for concussion, saying "maximum power could remain a strong predictor of concussion …" Because rotational injuries were still not possible to entirely to test, the conspirators reached the self-serving conclusion that the old car-crash test (SI) metric might still be the best test. The SI metric was also the only test that could be empirically captured. Defendants' testing contemplated a head impact power index, a parameter combining linear and rotational acceleration, and measured that index on each hit with the help of tiny accelerometers inside the dummies' heads.

260. The HIP index still could not fully capture rotational injury, a fact acknowledged by the study's authors, and subsequently by David Viano and Elliott Pellman, among others.

261. In layman's terms, Viano and Pellman concluded the test was still effective to evaluate concussions based upon how fast and hard people collided, which meant that the old way of doing things (SI) was not obsolete, even where they acknowledged the possibilities of concussive traumas coming at far lesser impacts.

262. Part two of the study concluded, in layman's terms, that even though the new HIP metric was ineffective, insufficient, and subject to change, a helmet meeting this standard was better than a helmet not meeting this standard.

263. The study also acknowledged importantly, and accurately a conclusion properly imputed to the conspirators: NO HELMET CAN PREVENT A CONCUSSION.

264. The conspirators, along with NOCSAE, then engaged long-time RIDDELL expert witness P. David Halstead at the Southern Impact Research Center in Tennessee to perform additional research on helmet safety testing.

265. Then RIDDELL engineer Thad Ide had left RIDDELL in the early to mid-1990s and worked briefly at the SIRC for the first two years that it opened under this corporate name, beginning in 1995 when it was testing the helmets. He then left SIRC and returned to RIDDELL, whereupon he became a Senior VP of RIDDELL.

266. Halstead remained at SIRC claiming to conduct "research" and product testing, but in reality, operated the organization as a source of defense expert consulting for the NFL, NCAA, and protective-equipment manufacturers.

267. Halstead was and is, at all relative times, a career expert witness. Halstead has represented to have a masters and bachelors of science degree from SUNY, and to have taken post-graduate-level course work in biomechanics. In reality, Halstead's post-secondary education consists almost entirely of online coursework from an unaccredited university. He has

more recently conceded in deposition testimony and on his posted resume that he only possesses "non-traditional" education credentials.

268. During the time of the subject NFL/NOCSAE testing at SIRC, Halstead had not received all of this online education. He had, however, testified repeatedly as an expert witness for Defendant RIDDELL sued related to catastrophic protective-equipment malfunctions. In each instance, Halstead testified that the helmet at issue (or occasionally other equipment) was not to blame.

269. In turn, co-conspirator NFL uses NOCSAE certifications as the basis for the helmets that it allows players to wear. Regardless of how poorly the NFL may rate a helmet's technology, it will allow players to continue wearing the helmet, so long as NOCSAE certifies the helmet. From its inception in 1994, the MTBI Committee claimed to be conducting studies to determine the effects of concussions on the long-term health of NFL players. Instead of publishing truthful information about the MTBI crisis in the NFL, the MTBI committee spearheaded a disinformation campaign.

270. Chair Dr. Pellman, and eventual chairs Dr. Ira Casson, a neurologist, and Dr. David Viano, a biomechanical engineer, worked to discredit scientific studies linking head impacts and concussions to neuro-cognitive disorders and disabilities.

271. The MTBI Committee published its findings in a series of sixteen papers between 2003 and 2009. According to those papers, the MTBI Committee's findings supported a conclusion that there are no long-term negative health consequences associated with concussions or subconcussive injuries sustained by NFL players. These findings contradicted decades of independent research and the experiences of neurologists and players.

272. The MTBI Committee concluded that it was appropriate for players who suffered a concussion to return to play in the same game or practice in which the concussion occurred. In 2004, the MTBI Committee claimed that its research found that players who suffered a concussion were not at greater risk of suffering future concussions. The Committee also claimed that such players did not have increased susceptibility in the seven-to-ten day window after suffering a concussion.

273. The MTBI Committee's papers and conclusions were against the weight of prevailing scientific evidence outside their studies, and based on biased data collection techniques. They received significant criticism in scientific media from independent doctors and researchers and were met with skepticism in peer review segments following each article's publication.

274. As another example, in 2005, the MTBI Committee stated that "[p]layers who are concussed and return to the same game have fewer initial signs and symptoms than those removed from play. Return to play does not involve a significant risk of a second injury either in the same game or during the season."

275. Yet, a 2003 NCAA study of 2,905 college football players found just the opposite. "Those who have suffered concussions are more susceptible to further head trauma for seven to 10 days after the injury."

276. A 2003 study reported depression after traumatic brain injury. Seel, R.T., J.S. Kreutzer, et al., Depression after traumatic brain injury: National Institute on Disability, et al. Arch. Phys. Med. Rehabil. 83:177-184, 2003.

277. A 2003 report by the Center for the Study of Retired Athletes at the University of North Carolina found a link between multiple concussions and depression among former

professional players with histories of concussions. A 2005 follow-up study by the Center showed a connection between concussions and both brain impairment and Alzheimer's disease among retired NFL players.

278. Other erroneous conclusions that the MTBI Committee published included the following:

- that, ***because*** a "significant percentage of players returned to play in the same game [as they suffered a concussion] and the overwhelming majority of players with concussions were kept out of football- related activities for less than 1 week, it can be concluded that [MTBIs] in professional football are not serious injuries";
- that NFL players did not show a decline in brain function after a concussion;
- that there were no ill effects among those who had three (3) or more concussions or who took hits to the head that sidelined them for a week or more;
- that "no NFL player experienced the second-impact syndrome or cumulative encephalopathy from repeat concussions;" and
- that NFL players' brains responded and healed faster than those of high school or college athletes with the same injuries.

279. In 2002, following the Biokinetics study, RIDDELL released its Revolution helmet, purportedly specifically manufactured and designed to "reduce the incidence of concussions."

280. The Revolution helmet was born out of the *concept* that rotational injuries were causative of concussion and warranted protection, but without tests capable of gauging rotational forces in a meaningful way, it has lacked sufficient proof that its design functioned to perform in this manner.

281. Defendant RIDDELL claimed that its Revolution helmet could reduce the incidence of concussion by 31%, which fueled sales of the helmet model. Its media campaign surrounding the rollout of this "first of its kind" helmet included a video news release that created "over 60 million media impressions, nearly 150 television placements, over 100 newspaper clips, over 250 on-line placements and 6 live sports radio interviews."

282. In fact, the Revolution contains the same defective vinyl nitrate front liner system as RIDDELL's antiquated VSR-4 series helmet.

283. Materials such as thermoplastic polyurethane ("TPU") have been shown to help reduce head impact acceleration by absorbing energy more effectively throughout a wider range of temperatures thus reducing force on the brain.

284. Defendants knew or should have known that materials such as thermoplastic polyurethane ("TPU") are better at absorbing energy throughout a wider range of temperatures and provide better protection against head impacts when used throughout liner systems of football helmets.

285. Riddell has continued to utilize substandard liner materials such as vinyl nitrile foam that are less effective at reducing head impact acceleration by absorbing energy. Vinyl nitrile foam padding used in Defendants' helmets degrades over time and provides less protection against lower-level impacts that result in concussions.

286. The Cleveland Clinic found that modern football helmets are no better at protecting against concussions than vintage "leatherhead" football helmets. *See Vintage Leatherhead Football Helmets Often as Protective As Modern Helmets In Common Game-like Hits Cleveland Clinic Researchers Find*, Cleveland Clinic, November 4, 2011, http://my.clevelandclinic.org/about-cleveland-clinic/newsroom/releases-videos-

newsletters/2011-11-04-vintage-leatherhead-football-helmets-often-as-protective-as-modern-helmets-in-common-game-like-hits (last visited March 11, 2016).

287. Defendants knew, have known, and/or should have known that helmets are effective in eliminating skull fractures and reducing linear forces, but they are ineffective in reducing the rotational forces that result in MTBI and/or subclinical MTBI and/or diffuse brain injury.

288. Nevertheless, in 2002, Defendant RIDDELL released the Revolution helmet, a helmet specifically designed to "reduce the incidence of concussions" and developed as a consequence of the MTBI Committee's work.

DEFENDANTS' SHAM MARKETING OF EQUIPMENT AND FOOTBALL ITSELF

289. Riddell marketed the Revolution as "a first-of-its-kind helmet." Defendants NFL and NFL P allowed, encouraged, purveyed, and promoted the false marketing of these products to football players at every level over its possession and control.

290. Upon information and belief, with knowledge that the Riddell Revolution was being marketed in scientifically unsupportable fashion, Defendants NFL and NFL P encouraged reliance on these representations: NFL youth football players and NFL football players alike, including Robinson Jr. were informed that the Revolution reduced concussions.

291. The NFL, a $9B/year revenue entity, funding youth-marketing arms such as USA Football and formerly the NFL Youth Football Fund, has allowed and encouraged and even—through Defendant NFL P—licensed Defendant RIDDELL's noxious campaigns. All the while, NFL clubs benefitted, having been spared the expense of Riddell equipment if they had an 80%-or-greater brand-usage.

292. In its 2003 fact-sheet on the RIDDELL website, RIDDELL represented its Revolution helmet to have been born out of research from "an independent engineering consulting firm in Canada …" and being the first helmet ever designed with the intent of reducing MTBI occurrence.

293. Eventually, following this scandal's unfolding, Defendant RIDDELL eventually placed a warning on its Revolution line about *concussion*, but about none of the intertwined risks alleged in this Complaint: it made no mention of repetitive exposure to subconcussive traumas, latent disease, nor CTE; and, despite clear indications from the NOCSAE that indicate substantial if not overwhelming *probability* of concussive blows in football, the misleading warning suggested merely that contact in football "may" result in concussion and "brain injury", without specifying the nature of such injury. Its specific references only warn against TBI and *possible* risk of and from concussive trauma, making it, for these reasons among others, inadequate.

294. Following the release of the Revolution helmet, RIDDELL funded research at UPMC to study the new helmet with ImPACT proprietors and NFL club Drs. Michael "Mickey" Collins, Mark Lovell, and Joe Maroon (in their capacities as ImPACT proprietors only.)

295. The UPMC/RIDDELL study compared new Revolution helmets to old, refurbished, VSR-4 helmets—the oldest performing technology on the marketplace.

296. In this limited context, RIDDELL's Revolution eked out a victory in performance by approximately 2%: 7.6% to 5.3%, a statistically insignificant difference of 2.3%.

297. Further, this 2.3%'s evaluation metric was eviscerated: studies revealed the neuropsychological evaluation examination device (ImPACT) used to test the Revolution

helmets produce 20% to 40% false negative AND positive rates according to peer-reviewed testing.

298. In fact, even Dr. Maroon, himself an MTBI Committee members, upon information and belief, raised internal concerns over his hospital's ability to make these claims with ImPACT for Riddell.

299. In other words, baseline testing and/or follow up exams could have been and likely were wrong, making the results of this study entirely useless to show a 2.3% relative difference between old and un-reconditioned helmets when compared with new Revolution helmets.

300. Mickey Collins later agreed that the study had serious problems and that RIDDELL was shopping for research that would support its claim that the Revolution reduced concussions.

> "I needed money to fund my salary," he said. "I was going to get my ass fired, you know? So I'm looking for any kind of funding to do this research. Any struggling academic is looking for that. So that was part of it … I'm not an idiot; **I know Riddell wanted the results to look good, okay? I mean obviously. I understand that**. But I am one of the leading experts in concussion … there were serious flaws with the study, okay? I understand that."

Fainaru-Wada, M. and Fanairu, S., *League of Denial,* Three Rivers Press (2014).

301. Based on the 2003 UPMC study funded by RIDDELL, RIDDELL marketed the Revolution helmet in 2006 as reducing concussions by 31%—a figure criticized as an exaggeration by leading experts on head injuries.

302. Upon information and belief, UPMC attempted to make multiple, material changes to RIDDELL's media releases regarding the 31% claim, and the claim that the Revolution provided better protection against concussions, prior to the press release's dissemination.

303. Specifically, even some of the actual authors of the study took issue with how RIDDELL was characterizing the findings

304. By focusing solely on the larger number, which referred to a relative decrease in risk, this exaggerated any benefits of the types of products eventually worn by players wearing these helmets.

305. Dr. Robert Cantu, a neurosurgeon and leader in the field of sports-related concussion research, wrote a comment published in *Journal of Neurosurgery* that the study contained a "serious, if not fatal methodological flaw." The study was flawed because it discounted low impact hits and in turn proved that the Revolution did not reduce the risk of concussions.

306. Upon information and belief, the RIDDELL and NFL P Defendants have knowingly failed to utilize the safest materials available in the construction of football helmets, which has resulted in an increased risk of brain injury in football players. In fact, Riddell has marketed the Revolution helmet—until 2013 the NFL's official helmet—as a panacea when it contains the same defective liner system as its VSR-4 series predecessor.

307. In fact, RIDDELL and NFL P have consistently marketed their helmets as having "concussion reduction technology" thus promoting a false sense of security to helmet users and the public. RIDDELL has continued to utilize substandard liner materials and padding that are less effective at and reducing head impact acceleration by absorbing energy and despite their superior knowledge about the risks associated with concussions and repetitive head impacts.

308. Dr. Robert Cantu observed that the small sample size and voluntary participation in the MTBI study discussed by Drs. Pellman and Viano suggested bias in the study design. As a result, he concluded, no conclusions should be drawn from the study.

309. Overall, the MTBI Committee's work received overwhelming criticisms as being industry-driven and self-serving.

310. A different scientist who reviewed the MTBI Committee's work stated that the NFL's primary goal appeared to be preparing a defense for when injured players eventually sued, and that the league seemed to be promoting a flawed scientific study to justify its conclusion that concussions do not have adverse effects on players.

311. Dr. Kevin Guskiewicz, referring to the MTBI Committee, has stated that the "data that hasn't shown up makes their work questionable industry-funded research."

312. The NFL and the MTBI Committee, in addition to promoting false and misleading information, sought to discredit and deny the findings of other researchers confirming the link between football head injuries and long-term brain damage.

313. Pellman fired William Barr, a neuropsychologist who served on the MTBI Committee as a consultant, after Barr presented NCAA study findings that called into question certain NFL practices.

314. Between 2002 and 2007, Dr. Bennet Omalu examined the brain tissue of deceased NFL players, including Mike Webster, Terry Long, Andre Waters, and Justin Strzelczyk. All of these individuals suffered multiple concussions during their NFL careers. Later in life, each exhibited symptoms of deteriorated cognitive functions, paranoia, panic attacks, and depression. Dr. Omalu concluded that the players had suffered from CTE. In July 2005, nearly three years after he first saw the body of former Pittsburgh Steelers center Mike Webster, Dr. Omalu's paper about Webster's brain was finally published in *Neurosurgery*: "Chronic Traumatic Encephalopathy in a National Football League Player."

315. After Dr. Omalu's findings were first published in *Neurosurgery*, the MTBI Committee wrote a letter to the editor of the publication asking that Dr. Omalu's article be retracted.

316. The MTBI Committee also attacked a study authored by Dr. Kevin M. Guskiewicz. That study analyzed data from almost 2,500 retired NFL players and found that 263 of the retired players suffered from depression. The study also found that sustaining three or four concussions was associated with twice the risk of depression as never- concussed players and five or more concussions was associated with a nearly threefold risk.

317. In November 2003, Dr. Guskiewicz was scheduled to appear on HBO's "Inside the NFL" to discuss his research. Dr. Pellman called Dr. Guskiewicz in advance and questioned whether it was in the best interest of Dr. Guskiewicz to appear on the program. On the program, Dr. Pellman stated unequivocally that he did not believe the results of the study [what year was this study? The one discussed above?] led by Dr. Guskiewicz.

318. In 2005, Guskiewicz performed a clinical follow-up study of more than 2,550 former NFL players, and found that retired players who sustained three or more concussions in the NFL had a five-fold prevalence of mild cognitive impairment in comparison to NFL retirees without a history of concussions.

319. The MBTI Committee attacked the study.

320. In August 2007, the NFL issued a concussion pamphlet drafted by David C. Viano—a non-medical doctor—to players. The pamphlet stated as follows.

> Current research with professional athletes has not shown that having more than one or two concussions leads to permanent problems if each injury is managed properly. It is important to understand that there is no magic number for how many concussions is too many. Research is currently underway to determine if there are any long-term effects of concussion[s] in NFL athletes.

321. In a statement made around the time that the concussion pamphlet was released, NFL Commissioner Roger Goodell said, "We want to make sure all NFL players . . . are fully informed and take advantage of the most up to date information and resources as we continue to study the long-term impact on concussions." The NFL decided that the "most up to date information" did not include the various independent studies indicating a causal link between multiple concussions and cognitive decline.

322. Commissioner Goodell also stated: "[b]ecause of the unique and complex nature of the brain, our goal is to continue to have concussions managed conservatively by outstanding medical personnel in a way that clearly emphasizes player safety over competitive concerns."

323. In 2005, the MTBI Committee published a paper that stated "[p]layers who are concussed and return to the same game have fewer initial signs and symptoms than those removed from play. Return to play does not involve a significant risk of a second injury either in the same game or during the season."

324. Facing media scrutiny over the MTBI Committee's questionable studies, Dr. Pellman resigned as the head of the Committee in February 2007. He nevertheless remained the NFL's Medical Director, merely replaced as head by Dr. Ira Casson and Dr. David Viano, but remained a member of the Committee.

325. Dr. Guskiewicz said at the time that Dr. Pellman was "the wrong person to chair the committee from a scientific perspective and the right person from the league's perspective."

326. Regarding Dr. Pellman's work, Dr. Guskiewicz stated, "[w]e found this at the high school level, the college level and the professional level, that once you had a concussion or two you are at increased risk for future concussions," but "[Dr. Pellman] continued to say on the record that's not what they find and there's no truth to it."

327. Drs. Casson and Viano continued to dismiss outside studies and overwhelming evidence linking dementia and other cognitive decline to brain injuries. In 2007, in a televised interview on HBO's Real Sports, Dr. Casson unequivocally stated that there was no link between concussions and depression, dementia, Alzheimer's disease, or "anything like [that] whatsoever."

328. In June 2007, the NFL convened a concussion summit for team doctors and trainers. Independent scientists, including Drs. Cantu and Guskiewicz, presented their research to the NFL.

329. Dr. Julian Bailes, a neurosurgeon from West Virginia University, briefed the MTBI Committee on the findings of Dr. Omalu and other independent studies linking multiple NFL head injuries with cognitive decline. Dr. Bailes recalled that the MTBI's Committee's reaction to his presentation was adversarial: "The Committee got mad . . . we got into it. And I'm thinking, 'This is a . . . disease in America's most popular sport and how are its leaders responding? Alienate the scientist who found it? Refuse to accept the science coming from him?"

330. At the summit, Dr. Casson told team doctors and trainers that CTE had never been scientifically documented in football players.

331. In 2008, Boston University's Dr. Ann McKee found CTE in the brains of two more deceased NFL players, John Grimsley and Tom McHale. Dr. McKee stated, "the easiest way to decrease the incidence of CTE [in contact sport athletes] is to decrease the number of concussions." Dr. McKee further noted that "[t]here is overwhelming evidence that [CTE] is the result of repeated sublethal brain trauma."

332. A MTBI Committee representative characterized each study as an "isolated incident" from which no conclusion could be drawn, and said he would wait to comment further until Dr. McKee's research was published in a peer-reviewed journal. When Dr. McKee's

research was published in 2009, Dr. Casson asserted that "there is not enough valid, reliable or objective scientific evidence at present to determine whether . . . repeat head impacts in professional football result in long[-]term brain damage."

333. In 2008, under increasing pressure, the NFL commissioned the University of Michigan's Institute for Social Research to conduct a study on the health of retired players. Over 1,000 former NFL players took part in the study. The results of the study, released in 2009, reported that "Alzheimer's disease or similar memory-related diseases appear to have been diagnosed in the league's former players vastly more often than in the national population—including a rate of 19 times the normal rate for men ages 30 through 49."

334. The NFL, which commissioned the study, responded to these results by claiming that the study was incomplete, and that further findings would be needed. NFL spokesperson Greg Aiello stated that the study was subject to shortcomings and did not formally diagnose dementia. Dr. Casson implied that the Michigan study was inconclusive and stated that further work was required. Other experts in the field found the NFL's reaction to be "bizarre," noting that "they paid for the study, yet they tried to distance themselves from it."

335. In 2010, Dr. Casson testified and denied the validity of independent studies and stated that "[t]here is not enough valid, reliable or objective scientific evidence at present to determine whether or not repeat head impacts in professional football result in long term brain damage."

336. The members of the MTBI Committee knew differently. Dr. Casson testified that he was "the lead author of a landmark paper on brain damage in modern boxers" published in the Journal of the American Medical Association in 1984. That paper studied eighteen former and active boxers and found evidence of brain damage in 87% of them. Clausen H, McCrory P,

Anderson V The risk of chronic traumatic brain injury in professional boxing: change in exposure variables over the past century British Journal of Sports Medicine 2005;39:661-664.

337. In that same vein, Casson's written statement said that he had "been concerned about the possibility of long term effects on the brain related to football for close to three years."

338. Under its new leadership, the NFL's re-named "Head Neck and Spine Committee" did little to improve its ways. While it admitted that data collected by the previous leadership was "infected" and formally asked Dr. Pellman not to appear at a Committee conference, Pellman remained on the committee. Moreover, the HNS Committee actively sought to block government funding for Boston University's CTE research and has loaded up its roster *primarily albeit not exclusively* with researchers who deny the effects or even existence of CTE, which has a known association to mood-changes, impulsivity and suicide.

339. Ultimately, in March of 2014, Defendant RIDDELL agreed to stop making its claim regarding the 31% claim after the Federal Trade Commission's division of advertising practices determined "significant limitations" in its study.

340. Indeed, a substantial portion of this liability-limiting conspiracy has entailed shifting blame from those entities with superior knowledge and control —namely the conspirators—onto football's employees/end-users, and creating public opinion and science that would support personal-choice and/or causation defenses in the guise of good-faith research.

341. As NFL General Counsel Jeff Pash stated on Christmas of 2009, following the release of updated helmet memorandum, "the Commissioner believes if *players* are given the proper information, *they* can make good choices about their equipment and safety."

342. By way of another example, many conclusions of the MTBI Committee's research have, including but not limited to the jointly sponsored helmet research, focused

repeatedly on distinctions between *NFL* football play as compared with *pre-NFL* football play, or versus youth-football play, when the scientists themselves and their peer-reviewers have known such distinctions' only worth lay in tort defense.

343. Not coincidentally, the Defendants have attempted to establish exactly this sort of 'science', using the research of the MTBI Committee. The committee posed as a scientific research organization when in fact it was not; the RIDDELL/NFL conspiracy sought to redevelop litigation science on legal causation by drawing a distinction between NFL-football-play and head-trauma suffered in youth-football and/or high school or college football to defend itself. They began collecting data for a study to prove exactly such a conclusion during the time-period when Defendants played football, instead of providing him with truthful information about repetitive head trauma. The result of this fraudulent research was the February 16, 2016 paper from Casson, Viano and Lovell referenced *infra*. *See* Solomon, Kuhn, Zuckerman, Casson, Viano, Lovell, Sills, *Participation in Pre–High School Football and Neurological, Neuroradiological, and Neuropsychological Findings in Later Life: A Study of 45 Retired National Football League Players*, 44 Am. J. Sports. Med. 3 (Mar. 2016).

344. Dr. Pellman in earlier words echoed these sentiments, quoted in the Winter 1997 edition of co- conspirator Pro Football Athletic Trainer's Society's quarterly trade publication, distinguishing his MTBI Committee as independent in nature by claiming that "**athletic trainers** are the most important link in head injury treatment."

345. In this same article that "[w]e are in the process of setting safety standards the NFL can look to when a mild traumatic brain injury occurs." Indeed, this would not occur for 10 years. Moreover, in making this concession, Pellman attempted to distribute responsibility onto others: "players, coaches, athletic trainers and physicians should all be able to recognize an

[MTBI], know what the correct safety standards are and be able to determine at what point a player should return to the field after sustaining mild brain trauma. The standard doesn't exist in the medical community right now, and we in the NFL are attempting to set the standard." He said, nearly a decade after an international return-to-play protocol had been established by the global medical community, and two to three years after the MTBI Committee's consensus on its own working definition for a concussion: "traumatically induced alteration of brain function." Notably, the American Association of Neurosurgeons' definition captures alteration of brain function "resulting from mechanical force or trauma."

346. Notwithstanding the NFL's actual/constructive knowledge of the link between exposures to head-trauma and long-term neurological disease/illness, at *all* times material to the Complaint, with respect to its injury database, the NFL knowingly permitted the alleged systemic failures by its member-clubs with respect to providing the data for this database.

347. The NFL has underreported and/or misreported head injuries, and/or mis-categorized head-injuries as other injuries (chest/neck/shoulder/muscular/unspecified) in order to manipulate its own data. This custom and practice has existed, upon information and belief, for the duration of this injury database, purportedly created to solve these sorts of problems, but in fact used to paint skewed statistical pictures favorable to the conspirators.

348. The MTBI Committee failed to include hundreds of neuropsychological tests done on NFL players in the results of the Committee's studies on the effects of concussions and was selective in its use of injury reports.

349. The conspirators continue to: attempt to advance and fund pseudo-scientific studies gear to limit liability.

350. In 2013, the NFL Defendants supposedly ended their partnership with RIDDELL as the official helmet of pro football. While the NFL's sources leaked news that it needed "quite a bit of leverage" to get itself out of the RIDDELL deal early, almost concurrently with the end of this deal, USA Football and RIDDELL agreed to a near-identical deal.

351. USA Football is a supposedly independent body from the NFL, however, its founding Board of Directors consisted of the NFL's Commissioner of Football, the NFLPA's Executive Director, NFL Government Relations Director Joe Browne, and NFLPA attorney Douglas Allen. And upon information and belief, a substantial portion of funding for USA Football is driven by the conspirators.

352. Indeed, as Defendants have believed for decades, developing early interest in football fans leads to adult season-ticket holders is critical for brand-survival and for long-term profits.

353. Defendant NFL P instituted entire marketing campaigns around this premise, specifically trying to: "make soccer moms the coaches of tackle football" and to promote "heads up" tackle football even with the knowledge that such a style of football makes absolutely no difference whatsoever when it comes to preventing injury.

354. Specifically, by 1996, Defendants NFL and NFL P began and/or furthered marketing campaigns denominated "Play football", "Get in the Game", and Pledge allegiance."

355. Overseen at the highest level by NFL President Neil Austrian—who had worked with Phillip Morris since at least the early 1980s— and implemented by NFL P Vice President Don Garber, the "Play football" campaign was a youth marketing effort, geared toward getting children ages 6-11 (exactly decedent's age range at the time) playing football. Mothers were also a focus of this campaign, as Defendants NFL and NFL P believed that mothers needed to

rely on the representations that football itself was safe. Defendants NFL and NFL P believed that by succeeding in this campaign (e.g. creating young football players) they would increase lifelong fandom.

356. Defendant NFL and NFL P's "Play football" campaign did not contain any warnings. Indeed never mentioned risks such as CTE and/or repetitive sub-concussive traumas because it entirely failed to mention *any* risks in football play, acute or long-term in nature.

357. Decedent Robinson, Jr. accordingly just kept playing.

ADRIAN ROBINSON, JR.

358. Adrian Robinson, Jr. began playing football in approximately 1995 (at age 6) for approximately two decades. Robinson Jr. played initially for teams in receipt of Defendants' marketing funds; he then played for his high school; he then played for Temple University (2008-2011); he then played in the National Football League (2012 through the 2014-15 season); and then he finally—just before death—had signed a contract to play professional football in the Canadian Football League.

359. Adrian Robinson Jr.'s parents recognized NFL and Riddell branding associated with their child's football, and in reliance thereupon, believed they were supporting their son and being *good parents* by encouraging what (in point of fact) proximately caused their son's CTE and/or death.

360. Adrian Robinson, Jr.'s head would be repeatedly battered before his neck muscles had even fully developed, and while—unwittingly—his parents would cheer on his every exposure to the process that would lead to his demise.

361. By the early 2000s, Adrian Robinson began presenting with neurological and behavioral complaints.

362. Robinson would be diagnosed alternatively with Attention Deficit Disorder/learning issues and, at times, also with depression before even entering college.

363. Indeed, by 2002, Robinson, Jr. was noted to be failing in school.

364. Medical records suggest that following Robinson's fourth year of football exposures, at just *eleven years old*, he began needing medication to manage his concentration issues; no one in the 2000s connected this problem to football, substantially because Defendants were and had been performing sham research.

365. By the time Robinson was an early teen, he began experiencing frequent headaches, jaw aches, and requiring regular dosages of Motrin. Again, no one in the 2000s connected this problem to football, substantially because Defendants were and had been performing sham research.

366. Stunningly, in 2004, at just 14 years old, getting set to begin high school, and in the same year the Defendants' submitted their highly controversial "Paper 7" in the series of 16 to *Neurosurgery*—the paper suggesting that "it is possible **[studies of children] might find similar results** [to the MTBI Committee's Return to Play papers premised on incomplete and/or manipulated data]", Adrian Robinson, Jr.'s pediatrician documented significant neurobehavioral and/or neurocognitive and/or emotional decrements.

367. But the Defendants kept Robinson, Jr. and family in the dark. So he just kept playing; and his family kept permitting exposures of his brain to forces the Defendants knew were improper and did not reveal to be such.

368. Indeed, in coming years at Temple and when playing football professionally, Robinson Jr. would be provided with numerous liability releases supposedly in which he

"assumed the risks" related to football. Some of these even referenced "concussion." None of these mentioned CTE, depression, or suicide.

369. In contrast, however, by the time Robinson, Jr. was at Temple playing football, Defendants received a formal briefing by Boston University neuropathologist Ann McKee.

370. At this meeting, renowned suicide-expert and Columbia University neuro-pathologist Dr. J. John Mann, MD presented.

371. Upon information and belief, Dr. Mann believed suicide and CTE had a causal connection.

372. Dr. McKee presented findings that numerous brains—indeed close to 100% of the brain tissue examined—revealed unique findings of the CTE pathology, distinct from other tau deposits and identical to that from *dementia puglistica* and/or "punch drunk" scholarship.

373. By the time Robinson Jr. entered the NFL, NFL Defendants were aware of studies on CTE, suicide, and even proposals to study this in greater detail; Defendants opted to continue the denial and concealment and misrepresentations.

374. Defendant NFL even undertook to place a poster in NFL Member Club locker rooms claiming to warn about "concussion" but intentionally conflating *serious brain injury* with clinical MTBI, and entirely omitting reference to subclinical MTBI—the only scientifically accepted phenomenon linked to CTE.

375. Robinson, Jr. took his life on May 16, 2015.

376. Shortly thereafter, Robinson Jr.'s family *learned for the first time* about what CTE was; they sent the decedent's brain to be studied at Boston University, and CTE was discovered on October 12, 2015.

377. Robinson's lifetime of emotional and cognitive pain and suffering was proximately caused and/or his exposures profoundly aggravated by Defendants (sadly successful) conspiracy and concealment-fraud.

WRONGFUL DEATH AND SURVIVAL CLAIMS AND DAMAGES

378. Accordingly, Plaintiffs—in their respective individual/beneficiary status as well as in their respective individual statuses as partner and parents of decedent, Executrix of the decedent's estate, and as Co-Guardian of the Estate of Avery M. Robinson, the minor child and daughter of decedent—bring the claims below, by and through both the Pennsylvania Wrongful Death Act and the Pennsylvania Survivor Acts (42 Pa. C.S.A. § § 8301, 8302), seeking all available damages, including but not limited to: all available economic damages (*inter alia* lost future wages, lost parental support and services, funeral costs, past medical bills for erroneously diagnosed psychological conditions); all available non-economic damages (past and future pain and suffering (including Robinson Jr.'s own, in life); all available punitive and exemplary damages; and reasonable costs and attorney's fees.

CAUSES OF ACTION

COUNT I – CIVIL CONSPIRACY (ALL DEFENDANTS)

379. Plaintiffs re-allege each and every allegation set forth in all preceding paragraphs as if fully set forth herein.

380. Since at least the time of the Riddell-NFL P licensing deal (upon information and belief April of 1988), if not before, the NFL, NFL P, NFL C, and the Riddell Defendants, possessing massively superior knowledge to the Robinsons, agreed to conceal material facts regarding repetitive exposures to sub-clinical and clinical MTBI.

381. Defendants NFL, NFL C, NFL P, and Riddell, each took steps in advancement of their agreement to conceal, through funding of MTBI Committee sham research, including such research aimed at development of the Riddell Revolution Helmet.

382. Defendants' breach caused the decedent to become exposed to repetitive subclinical and clinical blows to the head (or MTBI), which proximately caused decedent's CTE.

383. Decedent himself experienced a chaotic and horrendous existence in many respects, due to his undiagnosed brain injury.

384. Decedent's CTE was a substantial factor in his self-inflicted death.

385. Adrian Robinson Jr., in life would have made different decisions regarding exposures to repetitive subclinical and clinical MTBI, had he been provided truthful information.

386. In addition, decedent's parents would have made different decisions regarding his football play had they been given this truthful information.

387. As alleged, Plaintiffs have suffered damages from this loss, including those damages experienced by Robinson in life, and seek the maximum damages allowable under the law, along with reasonable Attorney's fees and costs.

COUNT II – FRAUDULENT CONCEALMENT (ALL DEFENDANTS)

388. Plaintiffs re-allege each and every allegation set forth in all preceding paragraphs as if fully set forth herein.

389. Defendants NFL, NFL C, NFL P, and Riddell, each had superior knowledge of football's cognitive and behavioral risks, even undertaking to provide knowingly conflated warnings on *concussion* that omitted reference to CTE and subclinical MTBI.

390. Defendants concealed the information intentionally from decedent and from his family.

391. Adrian Robinson Jr., in life would have made different decisions regarding exposures to repetitive subclinical and clinical MTBI, had he been provided truthful information.

392. In addition, decedent's parents would have made different decisions regarding his football play had they been given this truthful information.

393. As alleged, Plaintiffs have suffered damages from this loss, including those damages experienced by Robinson in life, and seek the maximum damages allowable under the law, along with reasonable Attorney's fees and costs.

COUNT III – NEGLIGENCE – VOLUNTARY UNDERTAKING (ALL DEFENDANTS)

394. Plaintiffs re-allege each and every allegation set forth in all preceding paragraphs as if fully set forth herein.

395. Pursuant to Plaintiffs' "negligence summary tables", and beginning in the months prior to decedent's first football exposure in 1997, Defendants undertook, as stated in the second published paper in *Neurosurgery* to "scientifically investigate concussion" and to "reduce injury risks in **football**", notably not NFL football, and with "neither the authority nor the inclination to impose outside medical decision-making on the medical staffs of the individual teams."

396. Thus, Defendants voluntarily assumed each and every duty of care to all members of society, including Adrian Robinson, Jr. and his family for the entirety of decedents lifetime.

397. Defendants breached, specifically by: propagating false science in light of their undertaking and affirmative representations to endeavor truthfully and in good-faith; funneling money to related corporations under the guise of such moneys constituting charitable donations;

and fundamentally by failing to actually seek to reduce injury risks in football through good-faith science.

398. Defendants' breach caused the decedent to become exposed to repetitive subclinical and clinical blows to the head (or MTBI), which proximately caused decedent's CTE.

399. Decedent himself experienced a chaotic and horrendous existence in many respects, due to his undiagnosed brain injury.

400. Decedent's CTE was a substantial factor in his self-inflicted death.

401. In addition, decedent's parents would have made different decisions regarding his football play had they been given this truthful information.

402. As alleged, Plaintiffs have suffered damages from this loss, including those damages experienced by Robinson in life, and seek the maximum damages allowable under the law, along with reasonable Attorney's fees and costs.

COUNT IV NEGLIGENCE – MARKETING (NFL, RIDDELL)

403. Plaintiffs re-allege each and every allegation set forth in all preceding paragraphs as if fully set forth herein.

404. Defendants NFL and Riddell had a duty to exercise reasonably care in the marketing of football, including a duty to ensure that this marketing would not cause unreasonable harm.

405. Defendants failed to exercise ordinary care in this marketing, in that Defendants knew or should have known that their products created the risk of unreasonable and dangerous harm.

406. Defendants were negligent in marketing by presenting it as safe—and specifically presenting it as safe to decedent's parents—when defendants knew and/or should have known this was false, and that decedent faced massive risks and negative health effects.

407. Defendants adequately addressed the continuing health risks associated with concussive and sub-concussive blows, and/or brain injuries caused by the game and/or CTE and/or suicide and football.

408. Despite the fact that the defendants knew or should have known that the game and their products caused unreasonable and dangerous injuries to the brain, defendants continued to promote and market the game and their products without adequately informing of the risks.

409. Defendants' breach caused the decedent to become exposed to repetitive subclinical and clinical blows to the head (or MTBI), which proximately caused decedent's CTE.

410. Decedent himself experienced a chaotic and horrendous existence in many respects, due to his undiagnosed brain injury.

411. Decedent's CTE was a substantial factor in his self-inflicted death.

412. As alleged, Plaintiffs have suffered damages from this loss, including those damages experienced by Robinson in life, and seek the maximum damages allowable under the law, along with reasonable Attorney's fees and costs.

COUNT V – NEGLIGENCE – LICENSING (NFL P, RIDDELL)

413. Plaintiffs re-allege each and every allegation set forth in all preceding paragraphs as if fully set forth herein.

414. As the licensing arm of the NFL, Defendant NFL P had a duty to ensure that the equipment and materials it licensed and approved was of the highest possible quality and sufficient to protect Plaintiffs from the risk of injury, including, but not limited to, the

unnecessarily increased of traumatic brain injuries including risk from CTE and/or clinical/subclinical MTBI.

415. Defendant RIDDELL also had a duty to ensure that the equipment and materials they manufactured and had licensed was of the highest possible quality and sufficient to protect Plaintiffs from the risk of injury, including, but not limited to, the unnecessarily increased risk of brain injuries including risk from CTE and/or clinical/subclinical MTBI.

416. Defendants NFL P and RIDDELL breached these duties by licensing defective RIDDELL helmets for use while knowing or having reason to know that these products were negligently and defectively designed and manufactured.

417. Defendants NFL P and RIDDELL knew or had reason to know that these products not only did not protect Plaintiffs from MTBI or minimize the risk of such harm, but actually increased that risk and contributed to such harm.

418. Defendants' breach caused the decedent to become exposed to repetitive subclinical and clinical blows to the head (or MTBI), which proximately caused decedent's CTE.

419. Decedent himself experienced a chaotic and horrendous existence in many respects, due to his undiagnosed brain injury.

420. Decedent's CTE was a substantial factor in his self-inflicted death.

421. As alleged, Plaintiffs have suffered damages from this loss, including those damages experienced by Robinson in life, and seek the maximum damages allowable under the law, along with reasonable Attorney's fees and costs.

COUNT VI – NEGLIGENT HIRING/RETENTION/SUPERVISION (NFL, RIDDELL)

422. Plaintiffs re-allege each and every allegation set forth in all preceding paragraphs as if fully set forth herein.

423. Defendants NFL and Riddell hired, retained, and supervised David Viano, individually and/or by and through ProBiomechanics, LLC and/or the Institute for Injury Research to provide non-clinical expertise and/or research, in the name of aiding the entire football community (evidenced by the application of Paper 7's application to children as alleged above.)

424. Defendant failed to properly vet Viano, who acted as a paid expert witness, despite presenting findings to the scientific community.

425. Defendant's negligence in this regard resulted in a body of falsified and industry- funded research that purposefully and/or negligently contested and suppressed valid and truthful bio-medical science. The NFL's negligence allowed the MTBI Committee to use falsified industry-funded research to mislead the medical community and the general public on the risks associated with repetitive head impacts.

426. As a result of Defendant's negligence, decedent was exposed to repetitive subclinical and clinical blows to the head (or MTBI), which proximately caused decedent's CTE.

427. Decedent himself experienced a chaotic and horrendous existence in many respects, due to his undiagnosed brain injury.

428. Decedent's CTE was a substantial factor in his self-inflicted death.

429. As alleged, Plaintiffs have suffered damages from this loss, including those damages experienced by Robinson in life, and seek the maximum damages allowable under the law, along with reasonable Attorney's fees and costs.

COUNT VII – FAILURE TO WARN (RIDDELL)

430. Plaintiffs re-allege each and every allegation set forth in all preceding paragraphs as fully set forth herein.

431. Riddell possessed actual knowledge—including concerns by UPMC—that it was overstating its claims regarding Revolution helmets.

432. Riddell's on-helmet warnings—worn by Robinson throughout his career—never once (to this day) addressed CTE, suicidality, subclinical MTBI, or latent disease-risk.

433. Nor did Riddell provide information on relative risk, due to its NOCSAE participation and agreement not to do so.

434. Nor did Riddell disclose the fact that its Revolution attenuated shock identically to its older models.

435. As a result of Defendant's failure to warn, decedent was exposed to repetitive subclinical and clinical blows to the head (or MTBI), which proximately caused decedent's CTE.

436. Decedent himself experienced a chaotic and horrendous existence in many respects, due to his undiagnosed brain injury.

437. Decedent's CTE was a substantial factor in his self-inflicted death.

438. As alleged, Plaintiffs have suffered damages from this loss, including those damages experienced by Robinson in life, and seek the maximum damages allowable under the law, along with reasonable Attorney's fees and costs.

Respectfully Submitted,

Dated: May 15, 2017

By: */s/ Bradford R. Sohn*

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Plaintiff's Counsel

VERIFICATION

I, Adrian Robinson, hereby certify that the statements set forth in the foregoing *COMPLAINT IN CIVIL ACTION* are true and correct to the best of my knowledge, information and belief. The factual matters set forth therein are based upon information which has been furnished to my counsel, or which has been gathered by my counsel as it pertains to this lawsuit; that the language contained in the foregoing is that of counsel and not the undersigned; and, that to the extent that the contents of same is that of counsel the undersigned has relied upon counsel in making this verification.

I understand that this Verification is made subject to the penalties of 18 Pa.C.S.A. §4904 relating to unsworn fabrication to authorities, which provides that if I knowingly make false averments, I may be subject to criminal penalties.

Date: 5/15/17

Adrian L Robinson

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

Adrian L. Robinson, Sr. and Terri J. Robinson as Personal Representatives and Co-Administrators of the Estate of Adrian Lynn Robinson, Jr., DECEASED, Adrian L. Robinson, Sr. and Terri J. Robinson and Hawa Binturabi Conteh and Marie Wuyatta Conteh as Co-Guardians on behalf of the Estate of Avery Marie Robinson, a minor child, and Adrian L. Robinson, Sr., Terri J. Robinson and Hawa Binturabi Conteh, individually and on behalf of Avery Marie Robinson, a minor child, as beneficiaries and survivors, Plaintiffs, vs. NATIONAL FOOTBALL LEAGUE, THE NATIONAL FOOTBALL LEAGUE FOUNDATION, individually and as successor in interest to NFL CHARITIES, NFL PROPERTIES LLC, individually and as successor in interest to NFL PROPERTIES, INC., RIDDELL, INC., RIDDELL SPORTS GROUP, INC., ALL AMERICAN SPORTS CORP., BRG SPORTS, INC. f/k/a Easton-Bell Sports, Inc., BRG SPORTS, LLC f/k/a Easton Bell Sports, LLC, EB SPORTS CORP., and BRG SPORTS HOLDINGS CORP. f/k/a RBG Holdings Corp., Defendants.	:	No. 170502513 CIVIL ACTION – LAW MAY TERM, 2017 JURY TRIAL DEMANDED Filed on behalf of Plaintiffs: Counsel of Record for this Party: Bradford R. Sohn, Esquire *Admission Pro Hac Vice Pending* THE BRAD SOHN LAW FIRM, PLLC 2600 S. Douglas Road, Suite 1007 Coral Gables, Florida 33134 (786) 708.9750 brad@sohn.com Benjamin Andreozzi, Esquire PA ID No. 89271 ANDREOZZI & ASSOCIATES, PC 111 N. Front Street Harrisburg, Pennsylvania 17101 (717) 525-9124 ben@victimscivilattorneys.com

ACCEPTANCE OF SERVICE

I, Douglas M. Burns, Esquire, accept service of the Complaint filed in the above-captioned matter on behalf of Defendant(s) National Football League, National Football League Foundation, and NFL Properties LLC, and I certify that I have authority to do so.

Date: May 19, 2017

Douglas M. Burns
Signature of Counsel

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

Adrian L. Robinson, Sr. and Terri J. Robinson as Personal Representatives and Co-Administrators of the Estate of Adrian Lynn Robinson, Jr., DECEASED, Adrian L. Robinson, Sr. and Terri J. Robinson and Hawa Binturabi Conteh and Marie Wuyatta Conteh as Co-Guardians on behalf of the Estate of Avery Marie Robinson, a minor child, and Adrian L. Robinson, Sr., Terri J. Robinson and Hawa Binturabi Conteh, individually and on behalf of Avery Marie Robinson, a minor child, as beneficiaries and survivors, Plaintiffs, vs. NATIONAL FOOTBALL LEAGUE, THE NATIONAL FOOTBALL LEAGUE FOUNDATION, individually and as successor in interest to NFL CHARITIES, NFL PROPERTIES LLC, individually and as successor in interest to NFL PROPERTIES, INC., RIDDELL, INC., RIDDELL SPORTS GROUP, INC., ALL AMERICAN SPORTS CORP., BRG SPORTS, INC. f/k/a Easton-Bell Sports, Inc., BRG SPORTS, LLC f/k/a Easton Bell Sports, LLC, EB SPORTS CORP., and BRG SPORTS HOLDINGS CORP. f/k/a RBG Holdings Corp., Defendants.	:	No. 170502513 CIVIL ACTION – LAW MAY TERM, 2017 JURY TRIAL DEMANDED Filed on behalf of Plaintiffs: <u>Counsel of Record for this Party</u>: Bradford R. Sohn, Esquire *Admission Pro Hac Vice Pending* THE BRAD SOHN LAW FIRM, PLLC 2600 S. Douglas Road, Suite 1007 Coral Gables, Florida 33134 (786) 708.9750 brad@sohn.com Benjamin Andreozzi, Esquire PA ID No. 89271 ANDREOZZI & ASSOCIATES, PC 111 N. Front Street Harrisburg, Pennsylvania 17101 (717) 525-9124 ben@victimscivilattorneys.com

ACCEPTANCE OF SERVICE

I, Paul G. Cereghini, Esquire, accept service of the Complaint filed in the above-captioned matter on behalf of Defendants Riddell, Inc., Riddell Sports Group, Inc., All American Sports Corp., BRG Sports, Inc. f/k/a Easton Bell Sports, LLC, EB Sports Corp., and BRG Sports Holdings Corp. f/k/a RBG Holdings Corp. and I certify that I have authority to do so.

Date: May 31, 2017

Paul G. Cereghini

THE COURT OF COMMON PLEAS OF PHILADELPHIA
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

Adrian L. Robinson, Sr. and Terri J. Robinson as Personal Representatives and Co-Administrators of the Estate of Adrian Lynn Robinson, Jr., DECEASED, Adrian L. Robinson, Sr. and Terri J. Robinson and Hawa Binturabi Conteh and Marie Wuyatta Conteh as Co-Guardians on behalf of the Estate of Avery Marie Robinson, a minor child, and Adrian L. Robinson, Sr., Terri J. Robinson and Hawa Binturabi Conteh, individually and on behalf of Avery Marie Robinson, a minor child, as beneficiaries and survivors,	:	No. 170502513 CIVIL ACTION – LAW MAY TERM, 2017 JURY TRIAL DEMANDED
Plaintiffs,	:	
vs.	:	
NATIONAL FOOTBALL LEAGUE, THE NATIONAL FOOTBALL LEAGUE FOUNDATION, individually and as successor in interest to NFL CHARITIES, NFL PROPERTIES LLC, individually and as successor in interest to NFL PROPERTIES, INC., RIDDELL, INC., RIDDELL SPORTS GROUP, INC., ALL AMERICAN SPORTS CORP., BRG SPORTS, INC. f/k/a Easton-Bell Sports, Inc., BRG SPORTS, LLC f/k/a Easton Bell Sports, LLC, EB SPORTS CORP., and BRG SPORTS HOLDINGS CORP. f/k/a RBG Holdings Corp.,	:	
Defendants.	:	

STIPULATION FOR EXTENSION OF TIME TO ANSWER, MOVE OR OTHERWISE PLEAD

TO THE PROTHONOTARY:

It is hereby stipulated and agreed by and between the attorneys for Defendants National Football League, The National Football League Foundation, NFL Properties LLC (collectively "NFL Defendants"), Riddell, Inc., Riddell Sports Group, Inc., All American Sports Corp., BRG Sports, Inc., BRG Sports, LLC, EB Sports Corp., and BRG Sports Holdings Corp. (collectively "Riddell Defendants") and Plaintiffs that the time period within which the NFL Defendants and Riddell Defendants may answer, move, or otherwise plead in response to Plaintiffs' Complaint is hereby extended by ten (10) days from the original due date, up to and including June 18, 2017.

No such prior extension has been granted.

Dated: June 2, 2017

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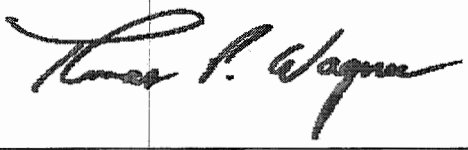
Attorneys for Plaintiffs	*Attorneys for Defendants National Football League, The National Football League Foundation, and NFL Properties LLC*  Thomas P. Wagner, Esquire PA ID No. 27145 MARSHALL DENNEHEY WARNER COLEMAN & GOGGIN 2000 Market St. Suite 2300 Philadelphia, PA 19103 (215) 575-4562 tpwagner@mdwcg.com *Attorneys for Riddell, Inc., Riddell Sports Group, Inc., All American Sports Corp., BRG Sports, Inc., BRG Sports, LLC, EB Sports Corp., and BRG Sports Holdings Corp.*

CERTIFICATE OF SERVICE

I, Sean P. Fahey, do hereby certify that on June 2, 2017, a true and correct copy of the foregoing Stipulation for Extension of Time to Answer, Move or Otherwise Plead was filed via the Court's electronic filing system and served upon the individuals below via email.

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All American Sports Corp.,
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EB Sports Corp., and BRG Sports Holdings Corp.

Dated: June 2, 2017

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